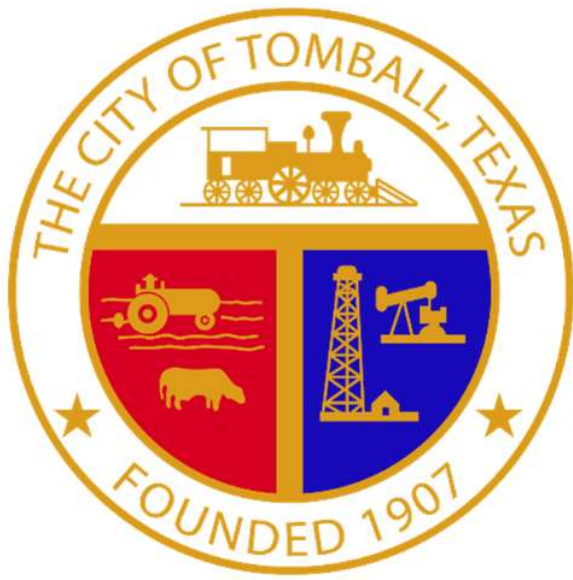
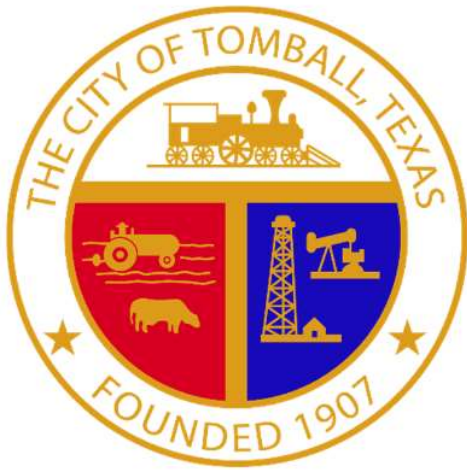




CITY OF TOMBALL, TX

EMPLOYEE HANDBOOK

(Revised November 2024)



A MESSAGE FROM OUR CITY MANAGER



DAVID ESQUIVEL, PE

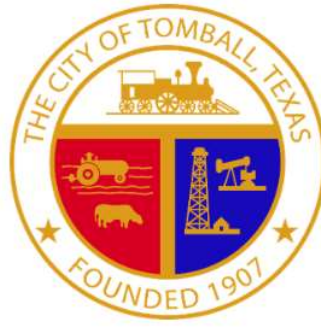
Welcome to the City of Tomball, TX!

We're happy you're here! Together, we're on a mission to become a premiere municipal organization and we're grateful to have you on the team.

We are committed to making the City of Tomball the best it can be, and we use our values and guiding principles to lead the way. We thrive when we all hold ourselves accountable to our core values, which are professionalism, integrity and respect.

Starting a new job can be overwhelming, so we developed this handbook to help you familiarize yourself with our policies and procedures. We encourage you to read this fully and keep it handy as an ongoing reference.

Thank you, again, for joining the our team. We can't wait to see what we accomplish together!

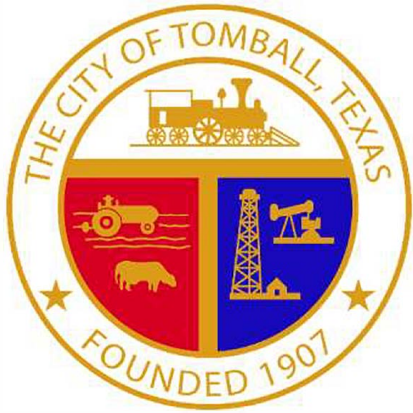


OUR **CORE VALUES**

PROFESSIONALISM

INTEGRITY

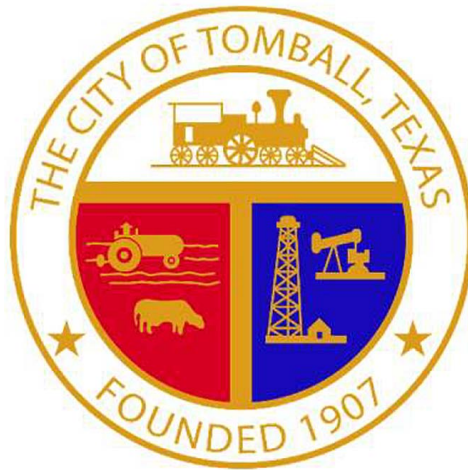
RESPECT



OUR **CULTURE**

The City of Tomball is an organization where employees are regarded as our greatest asset. The City of Tomball is committed to empowering and encouraging every employee to thrive, be dynamic, and be their absolute best.

OUR VISION

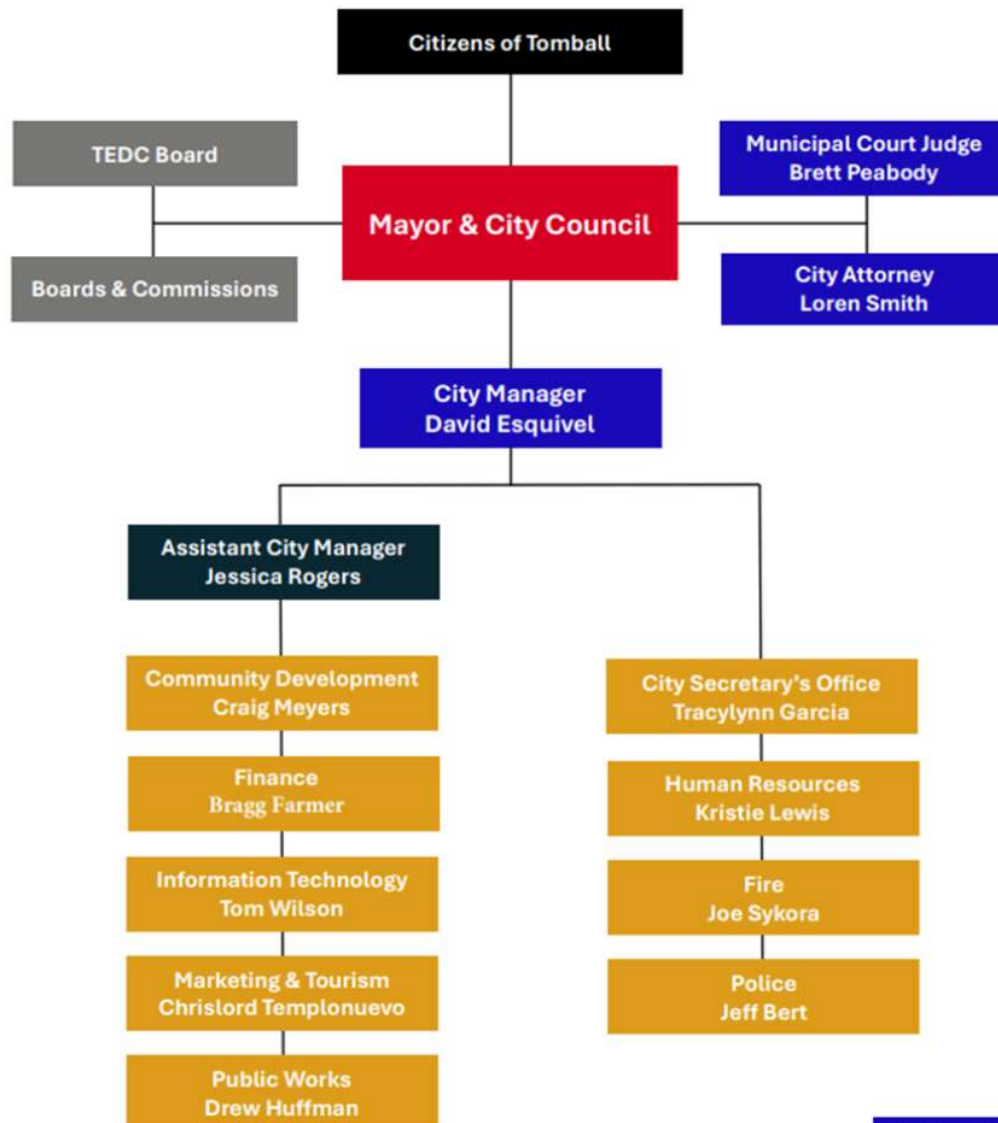


Our vision is one of people coming together to create the future of Tomball, instilling a sense of community and pride.

MEET THE ORGANIZATION



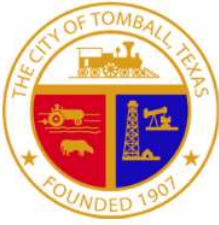
City of Tomball Organizational Chart



Council appointed position

Council appointed board

City department



ACKNOWLEDGEMENT OF RECEIPT OF EMPLOYEE HANDBOOK

This Handbook and the policies and procedures contained herein supersede any and all prior practices, oral or written representations, or statements regarding the terms and conditions of your employment with the City of Tomball. By distributing this handbook, the City of Tomball expressly revokes any and all previous policies and procedures which are inconsistent with those contained herein.

By signing this acknowledgement, I understand the following terms and conditions:

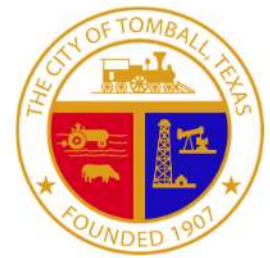
1. Any changes will be communicated through official notices and that revised information may supersede, modify, or eliminate existing policies.
2. Nothing in the employee handbook creates, or is intended to create, a promise or representation of continued employment and that employment at City of Tomball is employment at-will, which may be terminated at the will of either the City of Tomball or myself. Furthermore, I acknowledge that this handbook is neither a contract of employment nor a legal document.
3. I have received the handbook and I understand that it is my responsibility to read and comply with the policies contained in this handbook and any revisions made to it.
4. This form will be retained in my personnel file.

Employee's signature

Employee's name (print)

Date

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INTRODUCTION

Welcome to The City of Tomball! We want to make your employment with our organization as pleasant and comfortable as possible.

As a new employee you may have questions about City policies, procedures and expectations of you as an employee. This handbook will answer most of those questions. For additional information or clarification, please speak to your direct supervisor, department head, or the Human Resources Department.

PURPOSE

The purpose of the City of Tomball Employee Handbook is to provide a consistent guide to personnel interaction involving City employees. It is not intended to create contractual rights regarding employment. It also is not intended to give specific guidelines for every conceivable personnel interaction, but rather to be a guide to thinking. These policies are sufficiently broad to provide the latitude of discretion, which may be needed in individual situations. However, this degree of discretion shall not be permitted to violate a policy's intent. This Handbook should be referred to regularly when making decisions affecting City personnel. It will help to ensure that decisions are objective, fair, consistent, and in accordance with the expectations of City management. It is your responsibility to ask questions if you do not understand any policy or procedure. The more you know about working at the City of Tomball, the easier it will be for you to understand your role in relation to other positions.

The City of Tomball is an at-will employer. This handbook does not create, reflect or imply any contractual or vested right. Either you or the City may terminate this relationship at any time with or without cause.

USE OF THIS HANDBOOK

The City Manager or his/her designee is authorized and directed to administer this handbook, including the right to establish whatever detailed regulations and procedures may be necessary to further explain and clarify the provisions of this handbook, except with respect to those employees appointed directly by the City Council, unless further delegated to do so by the City Council.

In addition to the policies outlined in this handbook, it is the prerogative of each department head to develop and implement standard operating procedures, guidelines or general orders, which are separate from or in addition to the policies contained in this handbook. Department procedures must be consistent with City policies and in no case will departmental policies supersede those contained in this handbook. The City Manager or his/her designee will resolve any conflicts between department policies and city wide policies. In order to be in effect, all policies and commitments regarding your employment must be in writing and on file with Human Resources.

Many of these policies and descriptions in this handbook are summarized from laws, rules, plans, insurance policies and other official documents which actually control specific matters. These official documents take precedence over this handbook in all cases. The Human Resources representative is responsible for providing access to the official document during normal working hours.

References to benefits, insurance coverage, leave accruals and holiday pay are applicable to regular full-time employees.

It is your responsibility as an employee to read, understand and comply with all policies, procedures, guidelines and practices of both the City and individual departments.

AMENDMENTS

Due to ongoing changes in Federal and State laws and or budgetary limitations, the City retains the right to change, modify, suspend or cancel any of the benefits, policies and procedures at the sole discretion of the City Council, after providing notice to employees. Any employee who continues to work after receiving notice that a policy has been revised and implemented, is deemed to have accepted the change in policy. This handbook is subject to the City Charter as well as the constitution and laws of the State of Texas and the United States.

This version of the City of Tomball Employee Handbook supersedes all prior versions issued by the City.

SECTION 1 – UNLAWFUL HARASSMENT AND DISCRIMINATORY PRACTICES

1.01 EQUAL EMPLOYMENT OPPORTUNITY

The City of Tomball is an equal opportunity employer. The City does not discriminate against qualified applicants or its employees in its employment policies, practices and access to its services.

Title VII of the Civil Rights Act of 1964, as amended, and other state and federal civil rights laws prohibits discrimination against or preference for any person in recruitment, hiring, promotion, discharge, pay, fringe benefits, membership, job training, classification, appointment, referral, retention, discipline and other aspects of employment on the basis of race, color, national origin, gender, gender identity, age, marital status, disability, sexual orientation, genetics or religion.

The Equal Pay Act of 1963 (EPA), as amended, prohibits discrimination in payment of wages to women and men performing substantially equal work in the same establishment; recognizing that not all employees perform at the same level, employee salaries may be different based on factors other than gender, including individual performance evaluations.

The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits discrimination in health coverage (Title I) and employment (Title II) based on genetic information. The law prohibits employers from using genetic information for hiring, firing, promotion decisions, and for any other decision regarding the terms of employment.

The City will adhere to and abide by all fair employment laws, acts, and their amendments that apply to municipal entities. The City will not allow illegal discrimination in the workplace, and conduct found to violate the City's policies relating to discrimination and harassment may lead to discipline, up to and including termination.

1.02 DISABILITIES

The City does not discriminate on the basis of disability in its employment policies or in its admission to or access to its services and programs. The Rehabilitation Act of 1973, as amended, the Americans with Disabilities Act of 1990 (ADA), the ADA Amendments Act of 2008 (ADAAA), and the Texas Commission on Human Rights Act (TCHRA) protect qualified applicants and employees with disabilities from discrimination in hiring, promotion, discharge, pay, job training, fringe benefits, classification, referral, and other aspects of employment on the basis of disability. These laws also require that the City provide applicants and employees with disabilities with reasonable accommodation that does not impose undue hardship on the City. Requests for accommodation and complaints about accessibility should be directed to the Human Resources Department.

1.03 UNLAWFUL HARASSMENT

It is the right of all employees to perform their jobs in an environment free from all forms of harassment. The City prohibits and will not tolerate unwelcome conduct by any person, including City employees, vendors, customers, and any other person who enters the workplace, if the conduct is based on race, color, sex/gender (including sexual harassment), sexual orientation, gender identity, religion, national origin, disability, pregnancy, genetics or age, and if:

1. Submitting to the conduct or being subjected to the conduct is made either explicitly or implicitly a term or condition of employment, including hiring, promotion, pay, fringe benefits, job training, classification, referral, and other aspects of employment; or
2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
3. The conduct has the purpose or effect of unreasonably interfering with an individual's performance on the job or it creates a hostile, offensive or intimidating work environment.

Harassment may include offensive jokes, slurs, epithets or name calling, other derogatory ethnic/racial/sexual remarks, physical assaults or threats, attempted assaults, stalking, and other inappropriate or harassing physical conduct. While supervisors are responsible for creating and maintaining an atmosphere free of harassment, employees are responsible for respecting the rights of co-workers. The City will not tolerate discriminatory conduct or the display of discriminatory materials in the workplace that are offensive to a reasonable employee.

Sexual harassment may include unwelcome sexual advances, innuendo, requests for sexual favors, sexually demeaning conduct, or other physical, verbal or visual conduct based on sex. Sexual harassment does not depend on the harasser's motives or intentions, but on whether the behavior is unwelcome.

Any employee found in violation of this policy will be subject to disciplinary action, up to and including termination.

1.04 REPORTING AND INVESTIGATING DISCRIMINATION OR HARASSMENT

Any employee that is subject to, is a witness to, or becomes aware of any conduct that might be considered a violation of the protections in this section must report in a timely manner the incident to the Human Resources Department. If the Human Resources employee is the person engaging in the alleged conduct, the employee should report the conduct to the City Manager. Confidentiality of the report will be maintained as much as possible. However, absolute

confidentiality cannot be promised as the report may be disclosed to persons who need the information to conduct an investigation, or to take corrective action, or both.

After an incident described by this section has been reported, the Human Resources Department will conduct an investigation, and when appropriate, local law enforcement officials will be involved to ensure the safety of employees. If it is determined that discrimination or harassment prohibited by this section did occur, the City will take prompt corrective action to END the harassment or discrimination, RETURN lost benefits or opportunities to the employee, RESTORE a proper work place environment, and DISCIPLINE the harasser. An employee who is found to have engaged in conduct in violation of this section is subject to appropriate disciplinary action, including termination.

1.05 RETALIATION

Title VII, the ADAAA, the ADEA, and the TCHRA prohibit retaliation against an individual for filing a charge of discrimination, participating in an investigation of a discrimination claim, or opposing discriminatory practices.

Retaliation is an adverse employment action that occurs as a result of an employee reporting a violation of this section, refusing to participate in a violation of this section, or participating as a witness to an investigation conducted under this section. Adverse employment action includes decisions related to hiring, firing, pay, job assignments, promotions, layoffs, training or fringe benefits.

The City will not tolerate retaliation of any kind or in any manner. This protection extends not only to individuals who complain about unlawful harassment and/or activities, but also those who serve as witnesses in investigations.

In accordance with the Texas Whistleblower Act, the City prohibits suspending, terminating or taking other adverse personnel action against a City employee who in good faith, reports a violation of the law by the City or its employee to an appropriate law enforcement authority. Acts of retaliation must be immediately reported to the Human Resources Department.

A report of a violation of this section that is made in good faith will not be held against an employee. However, the misuse of the complaint process, such as knowingly make false statements, may result in appropriate disciplinary action, up to and including termination.

SECTION 2 – EMPLOYMENT

2.01 RECRUITING PROCEDURES

The Human Resources Department will advertise as necessary to recruit prospective applicants for vacant positions, communicate with appropriate agencies, contact possible sources for applicants, and maintain applicant files.

The Human Resources Department is responsible for:

1. Placing advertising on the City’s website, in publications, and any other appropriate advertising site.
2. Accepting all applications. Applications are only accepted at the time of an active recruitment.

A. REQUEST TO RECRUIT

Recruitments can be conducted in the following manner:

1. Public – Applications will be accepted from external candidates. Job postings are available on the City’s website.
2. Internal Only – No applications will be required. Job postings are emailed to all City employees and posted in common areas.

B. JOB POSTINGS

The Human Resources Department will develop a job posting, with guidance from the respective department, to describe the particular requirements for vacant positions. The job posting will reference the minimum requirements for the position, as this will provide the basis on which applicant qualifications will be evaluated.

Highly complex or difficult to fill positions may be posted as “open until filled” at the request of the Department Head and with the consent of the Director of Human Resources. An open-ended search will not have a fixed deadline for the receipt of applications. The job posting and related advertisements will specify the date when the review of applications will begin. This will allow Human Resources to continue to accept applications until an ideal candidate is identified.

C. APPLICATIONS

Applications by external candidates will only be accepted by the Human Resources Department during the specified open period of the job posting. Applications that have not

been processed and routed by the Human Resources Department during the posting period are not eligible for consideration. Resumes submitted without a completed City of Tomball application will not be considered for employment, with the exception of certain executive positions.

Current City employees that are interested in applying for a position within the City must submit the following information to the Department Head who has the vacant position:

- a. A Letter of Intent that explains fully:
 - The position of interest
 - Reason(s) for applying for the position
 - Any/all efforts that have been made to prepare for the role
- b. Resume, where applicable
- c. Last (2) years of performance evaluations

Once a selection is made by the hiring department, the Department Head should contact Human Resources to provide further guidance in transitioning the employee.

D. SHARING OF APPLICANT POOLS

Once a final candidate is selected from a pool of applications, the pool will remain viable for a period of 3 months. During this period, if a vacancy occurs with the same job title, the Hiring Department may choose to review applications from the pool rather than re-recruit.

E. INTERVIEWS

The Department Director shall review the applications and schedule interviews for those candidates selected for further consideration. Consideration must be given to all applications received; however, interviews need not be provided to all applicants.

The Human Resources Department can assist the Department Director in structuring interview questions, seating interviewing panels, devising scoring mechanisms and for other assistance in the interview process.

Interview questions must be relevant and related to the position and the skills required. In addition, all candidates must be asked the same core group of questions to provide a fair and equal opportunity process.

F. SKILLS TESTING

The Hiring Department will contact the Human Resources Department to arrange for skill testing. Skills such as, but not limited to, typing, word processing, spreadsheets, databases, job knowledge, and other current systems and applications may be measured.

G. REFERENCE CHECKS

All efforts shall be made to determine the applicant's past work history. The best reference is someone who is in a position to evaluate the applicant's work performance. Personal references should be avoided unless they are the only references available.

The Department Director or Hiring Manager shall conduct reference checks prior to communicating a conditional offer of employment to a candidate. If an internal candidate is being considered, reference checks must include at least one person from the current supervisory chain of command.

H. SELECTION

The Hiring Department will be responsible for selecting from among the referred candidates to fill vacancies. Selection(s) must be defensible and documented.

The Hiring Department is responsible for sending letters or emails to applicants, regardless of whether or not they were interviewed, notifying unsuccessful applicants that another candidate was selected.

I. PRE-EMPLOYMENT MEDICAL SCREENING

1. Drug and Alcohol

Any external applicant for employment who has been made a conditional offer of employment will be required to undergo a drug test for the presence of drugs in their system. The Human Resources Department must receive a negative test result before the applicant may be made a final offer of employment. A job applicant who refuses to consent to a drug test as a condition of employment will be denied employment with the City of Tomball.

After a conditional offer of employment is made, the Human Resources Department is responsible for making an appointment for a pre-employment physical (if required for the position) and instructing the applicant to report to the Human Resources Department for the pre-employment drug test. The applicant must report to the Human Resources Department within 24 hours of being notified of the drug test.

The Human Resources Department will provide the paperwork for the applicant to take to the Testing Site. The applicant must show picture identification to a representative at the testing site. The applicant must provide the sample as required or lose the opportunity for employment.

The testing site will provide Human Resources with the result of each drug test. The original result will be kept on file with the Human Resources Department, where it will be retained for a minimum of two years.

If the applicant receives a positive result on the drug test, the Human Resources Department will inform the Hiring Department. The conditional job offer will be rescinded by the Human Resources Department. The Hiring Department can choose another applicant from the same applicant pool or reopen the position for recruitment. If an applicant receives a negative dilute result, the applicant must retake the drug test within 24 hours. The second result is the final result.

Any applicant who has tested positive for a controlled substance during the application process may be considered for employment with the City of Tomball, following a period of one year and a documented drug rehabilitation program. Upon reapplication, the applicant must also agree to at least one year of random drug tests (6 tests during the one-year period) paid for by the City.

2. Physical Examinations – Public Safety

All public safety police applicants who are being considered to fill a position will undergo a thorough physical examination and will also be required to pass a psychological screening process which includes a written psychological test and an oral interview with a psychologist. Document L-2 is signed by the physician stating the applicant is able to perform the essential duties of a police officer. The psychologist signs an L-3 stating there is no mental reason that an applicant could not perform the duties of a police officer. Both the L-2 and the L-3 forms are required by the State of Texas licensing agency for police officers and are sent to the state once an applicant has been employed by the City of Tomball Police Department. Dispatch candidates will also be required to provide an authenticated L-2 and L-3 indicating that they are fit to perform the duties of a dispatcher.

After a conditional employment offer is made, firefighter applicants are required to complete a pre-employment physical and must be deemed able to perform the essential duties of a firefighter by the City's contracted physician. Firefighter applicants must meet the standards of the National Fire Protection Association.

J. BACKGROUND INVESTIGATIONS

Background investigations will be done in accordance with the requirements for filling the vacant position.

1. Background Check – Non-public Safety

The background information will be used to ensure that the City does not place an applicant in a position that may create liability for the City. An applicant will not be disqualified from hire merely by having a criminal conviction. The nature of the offense, how much time has passed, and the job the applicant has applied for will be taken into consideration. Because of confidentiality issues, the Human Resources Department is responsible for receiving and evaluating all applicant background information.

2. Background Investigations - Public Safety

A thorough and comprehensive background investigation is completed on each police officer, public service officer, dispatcher, and firefighter candidate. Background

investigations are completed internally by a City approved background investigator and maintained in accordance with department protocol.

K. DRIVER'S LICENSE VERIFICATION AND HISTORY CHECK (MVR), IF APPLICABLE

Applicants that are considered for a position that requires the operation of a City vehicle must possess a valid Texas Driver's License. The applicant will have a Driver's License Verification and History Check before a final offer for employment is made.

An applicant whose position requires driving a city vehicle or driving on City business may not have more than 2 moving violations in a previous 3-year period, not including drug or alcohol related violations, or any drug or alcohol related motor vehicle violation. An applicant with any drug or alcohol convictions within the last 10 years from date of application will not be considered for employment.

Public safety police applicants are required to comply with the police department's rejection criteria, which include but are not limited to frequency of driving violations and frequency of both at-fault and not at-fault accidents.

If the personal driving record requirements are not met, the Human Resources Department will notify the Department Head, as well as call or meet with the applicant to discuss the applicant's driving record and reason for no longer considering the applicant for employment.

L. CREDIT HISTORY CHECK, IF APPLICABLE

The pre-employment credit report can provide insight into an applicant's financial responsibility. The report will be requested for those individuals being employed in a financial/accounting position and/or having significant fiscal responsibilities. The same process for "Notice of Intent to take Adverse Employment Action" described under the MVR section of this manual, will be used to notify the applicant.

Once all pre-employment activities are successfully completed, the Human Resources Department will contact the Department Head to proceed with the applicant. The Department Head will confirm the job offer with the applicant.

2.02 MINIMUM AGE REQUIREMENTS

Age limits are imposed for certain positions on the basis of a bona fide occupational qualification or statutory requirement. The City will comply with all specific State laws or any federally imposed age requirements. No person under the age of 16 will be employed in any position in the City.

When the City employs an individual under 18, the employee may not begin working until the parent(s) or legal guardian(s) grant permission in writing. No person under 18 years of age will

be employed in any regular position, or any temporary or part-time position requiring the operation of a motorized vehicle owned by the City.

2.03 NEPOTISM (Employment of Relatives)

A. Family Member - The City of Tomball defines a family member as:

1. A relationship created by marriage includes: spouse, spouse's child, spouse's parent, spouse's brother, spouse's sister, spouse's nephew, spouse's niece, spouse's grandchild, spouse's grandparent, spouse's first cousin, spouse's aunt, and spouse's uncle.
2. A relationship created by birth (blood) includes: parent, brother, sister, child, grandparent, grandchild, aunt, uncle, niece, nephew, first cousin, great-grandparent, great-grandchild, great-aunt, great-uncle, great-niece, and great-nephew.
3. Significant others who live in the same household.

B. Applicants and Employees within the same department

An applicant may be hired as an employee in the same department that already employs a person who is a family member of the applicant. However, both employees cannot have the same supervisor nor directly supervise each other. This passage does not apply to volunteers with the fire and police departments.

C. Elected Officials

No person related within the second degree by affinity* or third degree of consanguinity** to the mayor, any member of the City Council, any officer of the City or officer of any City Board shall be appointed, voted upon or confirmed by that relative to any office, position, clerkship, employment or duty of the City. This prohibition shall not apply, however, to any person who shall have been continuously employed by the City for a period of six (6) months prior to the election of the Mayor or Council member so related to him/her. The person must have been continuously employed by the City for a period of thirty (30) days prior to the appointment of a related officer of a City Board or officer of the City to retain employment.

* "Affinity" is relationship created by marriage and within the second degree includes spouses, mother-in-law, father-in-law, sister-in-law, brother-in-law, daughter-in-law, son-in-law, grandparent-in-law and grandchildren-in-law.

** "Consanguinity" is a relationship created by birth and within the first and second degree includes grandparents, parents, brothers, sisters, children and grandchildren, and within the third degree includes aunts, uncles, nieces, nephews, great-grandchildren and great-grandparents.

2.04 RE-EMPLOYMENT

An employee who resigned from City service and submitted a written notice of resignation stating the date of departure and the reason for resignation is considered to have left in “good standing”. The notice of resignation must have been submitted a minimum of fourteen calendar days prior to the effective date. Employees who did not leave in “good standing” will not be re-employed with the City unless the City Manager grants approval.

If a former employee is re-employed by the City of Tomball within any time frame, the original hire date will not be used to restore vacation, sick, holiday, personal days and longevity accrual rates. All accrual rates will be based on the new hire date, any previous time will not be merged together. Prior service will not count for eligibility for any paid time off, and there will be no restoration of any accrued time that was unpaid at the time of separation of employment with the City of Tomball.

2.05 EMPLOYMENT AND ELECTED OFFICES

An employee must notify the City Manager of his or her intention to file as a candidate for any publicly elected office prior to filing as a candidate. The determination will then be made, on a case-by-case basis as to whether there is any conflict with the employee’s position with the City.

An employee may not serve on any city council appointed board or commission, except as authorized by ordinance, the City Manager, or as specified in the employee’s job duties.

Employees who are elected or appointed to a public office are required to resign from City employment, if the candidacy or position creates a conflict of interest with their City position, or the position provides for remuneration.

2.06 ORIENTATION

The Human Resources Department will provide a new hire orientation on a quarterly basis for all new hires. Department Heads and their supervisors shall orient all new employees within their department. Such orientation training includes the duties of the position, hours of work, relationship to the other employees, safety precautions, the rights and obligations of an employee, and information about the units and department. The new employee should be made welcome and be encouraged to ask questions, especially during the first weeks at work. Employees shall also be given a set of these rules.

SECTION 3 - STANDARDS OF CONDUCT

3.01 EMPLOYEE CONDUCT

A. STANDARDS OF CONDUCT

1. Employees shall not:
 - a. Contract with the City with any type of personal business unless authorized by the City Manager.
 - b. Accept or solicit, for personal financial gain, any benefit that might reasonably tend to influence them to act improperly in the discharge of official duties.
 - c. Use their official positions improperly to secure unwarranted privileges or exemptions for themselves, relatives or others. This includes suggestion or influence that the City transacts business with any entity of which they or their relatives are officers, agents or members or in which they or their relatives have a financial interest.
 - d. Lie to their supervisor or provide deceitful information.
 - e. Participate in making or influencing any City governmental decision or action in which they know that they have any financial interest.
 - f. Use or disclose, other than in the performance of their official duties or as may be required by law, confidential information gained in the course of or by reasons of their positions.
 - g. Transact any business (other than ministerial acts) or render any decisions on matters under the City's jurisdiction on behalf of the City with any entity of which they or their relatives are officers, employees, agents or members or in which they or their relatives have a financial interest. In the event such a circumstance arises, then they shall then make known their interest, and in the case of an employee, disclose the matter to their Department Head so that reassignment or other suitable action may be taken. Purchasing must also be notified.
 - h. Accept other employment, in addition to their City position, or engage in outside activities incompatible with the full and proper discharge of their duties and responsibilities with the City, or which might impair their independent judgment in the performance of their public duty.
 - i. Participate in a decision regarding a matter under the jurisdiction of the City, if the employee or a relative of the employee is negotiating or has negotiated employment with a person or organization that has a financial interest. The employee shall

immediately notify their Department Head that a conflict of interest exists and follow their instructions with regard to further involvement in the matter.

- j. Receive any fee or compensation for their services as employees of the City from any source other than the City, except as may be otherwise provided by law. This shall not prohibit their performing the same or other services for a public or private organization that they perform for the City if there is no conflict with their City duties and responsibilities.
- k. Knowingly perform or refuse to perform any act in order to deliberately thwart the execution of the City ordinances, rules or regulations or the achievement of official City programs.
- l. Personally represent or appear on behalf of the private interest of another before the City Council or any City board or department; or if the represented person's interest is adverse to that of the City, represent any person:
 - a. in any quasi-judicial proceeding involving the City; or
 - b. in any judicial proceeding to which the City is a party
- m. Provided, nothing in subsection (1) above shall preclude:
 - a. Any employee from performing the duties of his or her employment;
 - b. Any employee from appearing before the City Council or any City board or department, in a manner consistent with other City policies and rules, to discuss any general City policies or public issues; or
 - c. An employee from testifying as a witness under subpoena in a judicial or quasi-judicial proceeding.

B. EXCEPTIONS

Exceptions made to any item in Policy 3.01 must be approved by the City Manager and kept on file by the Finance Department or Human Resources Department, as appropriate.

C. NOTIFICATION OF FRAUDULENT INCIDENT OR PRACTICES

In the event that an employee observes a fraudulent act or suspects that a fraudulent act has occurred, notification of the act must be made in accordance with the Interdepartmental Policy and Procedures.

3.02 ATTENDANCE

Employees shall be required to be at their places of work in accordance with work schedules established by their department. Employees are expected to be at their workplace or on official duty during City business hours or be officially excused by their supervisors. Any employee who fails to report, is habitually tardy, leaves the workplace without proper authorization or misuses leave may be subject to disciplinary action.

Employees who are “*habitually tardy*” are considered employees who have established a pattern of tardiness and/or sick leave absences with frequent repetition. One factor that supervisors should consider is how the pattern of tardiness and/or absences impacts departmental operations and/or staffing levels. All departments shall maintain accurate attendance records.

Whenever an employee is unable to report to work because of illness, injury or an emergency, the employee must contact their supervisor as far in advance as possible prior to their scheduled shift time, and each subsequent day thereafter. Such notification should include when the employee can be expected to report to work. Leave time is subject to the approval of the supervisor.

The absent employee is responsible for ensuring that proper advance notice of absence or late arrival is given to their supervisor, in accordance with the department rules. It is the employee’s responsibility to make at least one more attempt to contact their supervisor after the initial notification if a supervisor’s response has not been timely received by the employee. What is considered “timely” is based on the facts and circumstances that exist. Messages left with non-supervisory personnel will not be accepted.

Failure to provide proper notification of an absence or lateness, unexcused absences, late arrivals or early departures from work may result in disciplinary action, up to and including termination.

Any employee who fails to report to work for 3 consecutive workdays and fails to notify their supervisor in advance of the reason for the failure to report to work, will be considered to have voluntarily and irrevocably resigned from their position at the end of the 3rd day unless the City determines that the employee has a sufficient excuse for not giving notice.

3.03 MEAL AND BREAK PERIODS

Supervisors shall implement work schedules, including work hours and lunch schedules, to meet the general requirements of their departments and divisions. Break/rest periods are not required by the Fair Labor Standards Act, however, the City of Tomball may allow two 15-minute rest periods, which may be provided each day and are to be taken within the work area. The meal period should be 45 minutes or one hour in length and should normally be taken between 11:00 a.m. and 2:00 p.m. for those employees working a standard eight-hour shift. Rest periods and lunch breaks are to be taken as assigned and cannot be stored or banked. Schedules for Police and

Fire Department personnel will be established by the respective Chief. Break periods may be delayed in order to maintain production or services.

Nursing Mothers: Employees that are nursing mothers in the workplace are afforded certain protections under the law. For one year after the child's birth, these employees may take reasonable break time "each time such employee has the need to express milk" in a private space, other than a bathroom. "Reasonable" break times will be dependent on the nature of the circumstances, mutually agreed upon by both the employee and supervisor, with consideration of impact to operations. Supervisors and employees are encouraged to contact HR for guidance when appropriate.

3.04 EMERGENCY CONDITIONS

The citizens of Tomball depend on City employees before, during and after an emergency or disaster to provide or restore essential public services for the health, safety and quality of life for our community. In the event of a wide scale emergency that could impact our community, all employees must be ready to assist in managing the crisis and will be considered essential for the continuity of governmental operations until he/she are specifically relieved by the Department Director or their designee. This policy applies to all non-exempt and exempt employees, and it recognizes that some emergencies will provide no advanced warning.

A. EMPLOYEE GROUPS

In a large-scale emergency, City employees will be required to fulfill their individual responsibilities and function as a team to protect the City's vital assets, and maintain and restore essential City services. While the fire and police departments typically provide emergency services, other City departments may also be called upon to participate in response efforts.

B. PAY PROVISIONS

In the event of a Disaster Declaration, State of Emergency or a long-term emergency, all non-exempt that are declared "Essential personnel" and are required to work the duration of the event, will be eligible for overtime at the rate of one and one half (1 1/2) times their regular hourly rate of pay for actual hours worked. Exempt employees may receive time off for extensive hours worked during an emergency situation, as defined by the City Manager.

C. ABSENT EMPLOYEES

Once a State of Emergency is declared, employees who are absent, employees who leave early and employees who do not report to work without the appropriate authorization are subject to the appropriate disciplinary action, up to and including termination.

3.05 APPROPRIATE APPEARANCE

A. DAY-TO-DAY ATTIRE

Employee appearance contributes to the City of Tomball's culture and reputation. Employees are expected to present themselves in a professional manner that results in a favorable impression by clients and customers. Employees are expected to maintain minimum standards of dress, grooming and personal hygiene appropriate for the position and job duties and as necessary to protect the safety of the employees. As such, the City will apply a *reasonable and professional workplace* standard.

This policy establishes the foundation for the City's dress code policy. All employees, with the exception of Police, Fire and Public Works personnel, are expected to adhere to the following guidelines:

- When involved in any meetings/events with the public, vendors, or third-party entities, employees should wear business professional or business casual attire.
- For meetings with internal staff, business casual and casual attire is permitted.
- Business professional is always acceptable.

The specific criteria of the City's reasonable and professional workplace standard are further outlined below:

a. Business casual attire

- *Shirts*: Shirts with collars, business casual crewneck or V-neck shirts, blouses, and golf/polo shirts or City of Tomball branded polos or shirts.
- *Pants*: Casual slacks and trousers and jeans without holes, frays, etc.
- *Shoes*: Casual slip-on or tie shoes, dress sandals, and clean athletic shoes.

b. Business professional attire:

- *Generally defined as*: Tidy dresses, slacks, skirts, dark-colored suits and ties.
- *Shirts*: Neat button-down shirts or blouses with a blazer.
- *Shoes*: Appropriate and clean heels, loafers or flats.

c. Casual attire:

- *Shirts*: Button-down shirts with collars, blouses and sweaters.
- *Pants*: Appropriate jeans, khakis, linen or cropped pants.
- *Shoes*: Sneakers (when appropriate), loafers, low heels or sandals.

Management may make exceptions for special occasions or in the case of inclement weather, at which time employees will be notified in advance. Department heads and/or supervisors may exercise reasonable discretion to determine appropriateness in employee dress and appearance. An employee who is unsure of what is appropriate should check with his or her manager or supervisor.

Police, Public Works and Fire Department employees are covered under Departmental policies regarding appropriate dress and appearance.

B. PROHIBITED ATTIRE

In order to maintain a positive public image and to assist employees in determining what is appropriate, the following items are prohibited or restricted:

- Shirts that allow a bare midriff
- Beach type flip-flops
- Sweat-shirts, sweat pants, wind suits, overalls or shorts (Department Heads may make exceptions for uniformed seasonal wear)
- Ripped Jeans
- Any kind of clothing with advertisements, outside vendor or business logos/insignia, political messages, or slogans (unless provided by the City for a specific City/Public event)
- Clothing with obscene messages or that endorse alcohol, tobacco products, drugs, pornography, or offensive material of any kind
- Revealing, sheer, suggestive, see-through blouses or sweaters (unless worn over or under another shirt)
- Provocative or revealing, low cut attire including body-hugging, see-through, or excessively tight fabrics
- Lip, nose and eyebrow rings/studs, tongue studs or similar type facial jewelry (excluding ear lobes)
- Clothing that is dirty, soiled, stained, wrinkled, ripped or tattered
- Visible tattoos which could be deemed offensive.
- Clothing that is better suited for the beach, yard work, dance clubs, exercise sessions, and sports contests

- Hair should not be worn in a manner to create a safety hazard. Hair styles and hair colors must be appropriate to the employee's position and extremes of any type are unacceptable. For example, green hair, mohawk style haircuts, and severely spiked hair are not allowed. Hair, including facial hair, must be clean and neatly groomed at all times.

Employees in violation of this policy may be sent home. Under such circumstances, employees may not be paid for work time missed. Employees whose grooming or personal appearance violates this policy may be disciplined up to and including termination of employment.

The Director, with approval of the City Manager, may make departmental exceptions to this policy when deemed necessary for business reasons or implement a more restrictive dress and appearance policy.

Directors, Managers and Supervisors are responsible for enforcing this policy in their respective departments in order to maintain acceptable dress and appearance.

3.06 USE OF CITY PROPERTY

A. TELEPHONE LONG DISTANCE

All employees are restricted from making non-business long distance telephone calls via the City's long distance provider, except in emergency situations. Calls placed through personal calling cards, pre-paid cards, and/or credit cards are not prohibited, other than the general prohibition on employees unreasonably using work time for personal business. Calls made to an 800, 877, or 888, are acceptable. Calls to 900 numbers or numbers that will switch to a 900 call are not acceptable and shall be subject to disciplinary action.

B. CITY NON-TAKE-HOME VEHICLES

It is the policy of the City of Tomball to provide for transportation needs, as necessary, for its employees. City-owned vehicles may be used only for City business, except as otherwise specifically authorized by department policy approved by the City Manager.

Employees assigned a City vehicle will be required to sign a statement indicating that they have read and will comply with the rules and provisions of this policy. Employees who do not comply with the provisions of this policy shall be subject to disciplinary action up to, and including, termination.

All operators of City vehicles and equipment must possess a valid Texas Driver's License. Personal driving records can impact employees who must drive City vehicles or equipment to perform their jobs. At no time will city employees drive a city vehicle without a valid Texas Driver's License in their possession. All employees who drive City vehicles or receive vehicle allowances from the City will be subject to random motor vehicle records (MVR) checks.

C. TAKE HOME VEHICLES

Take-home vehicles are vehicles owned, leased, or otherwise under care and control of the City of Tomball and are taken home by the employee after regular working hours in order to respond to City emergencies, posing threats to life and/or property. Any non-compliance with this administrative procedure may result in immediate suspension from the take-home vehicle program or disciplinary action up to and including termination.

1. Authorization

Authorization for the use of a City take-home vehicle is the responsibility of the City Manager or his designee. A Department Director may authorize the temporary use of a City take-home vehicle for a special assignment or event. Department Directors, acting as designees or while authorizing exceptions as provided for in this directive, must be able to articulate just cause for any deviation.

2. Maintenance

To prolong the life and properly maintain City vehicles, employees will ensure that their assigned vehicles have sufficient gas, oil, and other fluids to prevent premature failure, and that all tires are kept properly inflated. The employee, to whom a vehicle is assigned, is responsible for the condition of the vehicle and for insuring that it continues on its scheduled maintenance program as set up by the Fleet Services Department. Any problems with the operation of the vehicle should be promptly reported to the Fleet Maintenance department. Said vehicles should be removed from service until the problem can be evaluated and/or corrected. Careless, abusive, negligent, or reckless handling or operation of any City vehicle by any employee may result in disciplinary action up to and including termination.

3. Accidents

All vehicle accidents shall be reported to the vehicle maintenance department. All city-owned vehicles and equipment involved in an accident shall be examined by the vehicle maintenance department prior to returning to service. The vehicle maintenance department shall determine if further examination or repairs by a specialized technician are necessary before returning a damaged unit to service.

4. Liability

Depending on the circumstances, the City of Tomball reserves the right to limit its liability for personal losses of the employee in the event of theft of belongings from a city-owned vehicle. Employees are responsible for taking prudent steps to ensure the reasonable security of the vehicle and its contents.

The City of Tomball also reserves the right to limit its liability in the event of an accident that is caused by the employee, depending on the time and the circumstances of the accident. Any tickets or fines received by the employee during their operation of a city-owned vehicle will be the responsibility of the employee.

5. Personal Use

It is understood that use of a City take-home vehicle for City purposes is unavoidably commingled with a small amount of personal use. However, using a City take-home vehicle for the sole purpose of conducting personal business is prohibited. Take-home vehicles shall not normally be used for personal business. Use of the vehicle for personal stops while en route between work and home are allowed if they do not significantly alter the normal route taken.

D. ALL VEHICLES

The following information is applicable to both City take-home vehicles and City non-take-home vehicles. All vehicles must be operated in a lawful manner and appropriately maintained under the care and control of the assigned employee.

Any non-compliance of this administrative procedure may result in immediate suspension from the take-home vehicle program or disciplinary action up to and including termination.

- All employees who drive City vehicles or receive allowances from the City must immediately inform their Department Head in writing, of any past convictions or pending charges from Driving While Intoxicated, Driving under the Influence of Drugs and/or moving traffic violations.
- Employees will not use City vehicles to haul or tow anything other than City equipment needed in the performance of their job assignment.
- Employees will not possess, purchase, or be under the influence of drugs or alcoholic beverages while operating City vehicles or equipment, or a private vehicle while performing City duties. Tobacco use is not allowed in any City vehicle at any time.
- An employee licensed to carry a concealed handgun under Texas law may not carry the concealed handgun in a City vehicle unless the employee is a licensed peace officer of the City and has the approval of their Department Head.
- Generally, non-city employees are not authorized to be passengers. Exceptions may be authorized by the appropriate Department Head.
- In no case shall a person other than a City employee be allowed to drive a City vehicle unless approved by the Department Head for an authorized use.

- All operators of City vehicles shall possess a valid Texas driver's license and maintain a satisfactory driving record and the appropriate license at all times. Driving records will periodically be examined.
- Employees who operate City vehicles in the course and scope of their employment must notify their supervisor if and when their driver's license becomes invalid or suspended for any reason.
- City employees, while operating City vehicles, are required to remain within the City limits unless conducting official business or commuting to and from work. Any other exception requires the approval of the Department Head.
- All employees, if involved in any vehicular collision in a City vehicle or in a private vehicle while performing City duties, shall call the appropriate law enforcement agency and contact their Department Head or appropriate supervisor.

The Human Resources Department will be notified by the supervisor so that an accident report can be completed and an insurance claim can be filed. The employee is also subject to post accident drug testing.

- Employees are not permitted under any circumstances to operate a City vehicle or private vehicle while performing City duties in situations where the employee is temporarily unable to operate a vehicle safely or legally, because of illness, medication or intoxication.
- Employees whose position require the operation of a motor vehicle must exercise due diligence to drive safely, wear seat belts, follow all traffic laws, and avoid distractions while driving, such as using cellular telephones or entering data on a Mobile Data Terminal (MDT) except as provided by state law for emergency response.
- Some city-owned vehicles are equipped with GPS tracking devices. Tampering with and/or disengaging such equipment is grounds for disciplinary action up to and including termination.

E. CELLULAR PHONES

The City will own and provide cellular phones and services to qualified and approved employees. The City will maintain a single service provider contract from authorized state, local or federal cooperative contracts that offer discounted pricing and a wide range of service plans. Use of any other services provider or contract for City owned cellular phones and/or services must be justified and approved.

As an alternative to a City owned and provided cellular phone and service, the City Manager may authorize the issuance of a monthly stipend to those employees deemed to be Critical Decision Makers. These payments are intended to pay only for City related costs incurred on personal

cellular phone accounts, and eliminate the need for those employees to carry and maintain a separate phone for City business. This stipend is considered taxable income to the employee.

3.07 INFORMATION TECHNOLOGY SYSTEM USE

The City provides technology and communications systems to employees. This includes internet and e-mail, as well as any system or part of a system owned or leased by the City that is used for sending, receiving, or accessing information by electronic means and transported on wired or wireless networks.

This policy provides guidelines for the general use of the City computers, electronic mail, and Internet access. It applies to both internal and external email sent and received, all Internet access, and any software or hardware installed on a City computer. These guidelines do not supersede any state or federal laws, or any other agency's policies regarding confidentiality, information dissemination, or standards of conduct.

This policy is not intended to cover every possible situation. Instead, it is designed to express the City of Tomball's philosophy and set forth general principles when using electronic media and services.

The City will review alleged violations of this policy on a case-by-case basis. Any violation of this policy could result in disciplinary actions, up to and including termination. Additionally, violations of this policy, when appropriate, may be referred for criminal prosecution.

A. ACCEPTABLE USE

Permissible use of the System is to carry forward City business. Use is encouraged when it results in the most efficient and effective means of communication. It is the responsibility of the employee to use the System, including internet and e-mail to assist in carrying out the business purposes of the City. This includes, but is not limited to:

1. Perform job functions,
2. Communicate information in a timely manner,
3. Coordinate meetings of individuals, locations, and City resources,
4. Communicate with departments throughout the City, and
5. Communicate with outside organizations as required performing an employee's job functions.

Generally, email and Internet should be used only for official City business however, brief and occasional email messages of a personal nature may be sent and received and occasional surfing and browsing for non-business reasons. Personal email and use of the internet should not impede the conduct of City business or violate policy restrictions. Personal email Internet use should not cause the City to incur a direct cost in addition to the general overhead of

email. Consequently, employees upon receiving personal email should read it and delete it. Personal use must not interfere with performance of job duties.

B. UNACCEPTABLE USE

Unless the use is related to the employee's job duties or authorized by a supervisor, employees may not use the System for any of the following purposes:

1. Under no circumstances is an employee of City of Tomball authorized to engage in any activity that is illegal under local, state, federal or international law while utilizing City of Tomball-owned resources.
2. Sending unsolicited email messages, including the sending of "junk mail" or other advertising material to individuals who did not specifically request such material (email spam) or creating or forwarding chain letters.
3. Sending, forwarding, creating, downloading, viewing, storing, or copying e-mails or information that violates any City policy and especially racial, offensive, or sexual, or contain other derogatory content that violates any City policy. Employees who receive inappropriate e-mails with content not within the City's policies from any City employee must report the matter to their supervisor or Human Resources Department immediately.
4. Surfing internet websites that are offensive, sexually explicit, abusive, threatening, or otherwise inappropriate for the workplace.
5. Spending excessive amounts of time on personal e-mail, surfing of the internet, or participating in chat rooms. Excessive use is defined as any use that could generate additional expense to the City, or decrease customer service internally or externally, or otherwise lower productivity of employees.
6. Copying or transmitting any documents, software or other information protected by the copyright laws, without proper authorization by the copyright owner. Copyright protection applies to any document, photo, software, or information unless it is specifically marked as public, not copyrighted, or freeware. In the absence of any specific copyright markings, material or information should be considered copyright protected.
7. Breaking into the System or unauthorized use of a password.
8. Intentionally and maliciously misrepresenting the originator of any type of electronic information.
9. Intercepting, eavesdropping, recording or altering another person's email, except as authorized the appropriate Department Head.

10. Attempting to send e-mail anonymously.
11. Soliciting, advertising or otherwise marketing for outside business ventures, personal parties, social meetings, and charities, membership in an organization or other matters not connected to the City or the community.
12. Installing copies of any software onto City of Tomball computers, or copying software from the City's computer to install on any other computer.
13. Using e-mail and the Internet for monetary interest or gain, or political purposes.
14. Employees should not subscribe to mailing lists or mail services strictly for personal use and should not participate in electronic discussion groups (i.e. list server, Usenet, news groups, chat rooms) for personal purposes.
15. Using e-mail and Internet facilities to disable, impair or overload the performance of any computer system or network, or to circumvent any system intended to protect the privacy or security of another user.
16. Impeding the City network bandwidth performance through web sites with streaming or continuous audio or video for non-business use, i.e. radio station broadcasts, video trailers, internet games, etc.

C. OWNERSHIP

All electronic information on the System remains the property of the City and public records, subject to the Texas Public Information Act. Employees have no right of privacy in the use of the System, even if permitted for personal use. Employees should have no expectation of privacy regarding their use of e-mail, e-mail content and the use of the Internet. Employees must recognize that it is within the capabilities of the System to recover previously deleted elements at any time and those recovered elements remain the property of the City.

D. MONITORING

The City reserves the right, with or without notice, at any time, for any reason, to monitor the use of the System and to access information sent, received or stored. All e-mail is subject to review by management or its representatives at any time, with or without notice. Use of the City e-mail and Internet system by an employee indicates that the employee understands that the agency has a right to inspect and audit all email communications, Internet usage, and consents to any inspections.

E. PUBLIC DISCLOSURE

Any information on the System is presumed to be subject to disclosure, upon request, as public information. Therefore, employees should use discretion in making use of the System to discuss sensitive matters or matters in litigation.

F. PASSWORDS

Passwords are an important aspect of computer security. Employees must take every precaution to protect their passwords. A poorly chosen password may result in the compromise of the City's network.

If an account or password is suspected to have been compromised, report the incident to Information Technology and change all passwords.

G. SOFTWARE

To protect the integrity of the City's computer network environment, all software must be pre-approved by the Department Head or designated personnel, and a compatibility check completed through the IT department before installation. Unauthorized software installation is strictly prohibited. Any software installed by the IT Department shall not be removed or altered in any way.

To maintain compliance with U.S. Copyright laws and to protect the integrity of the City of Tomball computer environment from viruses, unauthorized installation or downloading of any unauthorized software is strictly prohibited. Employees are not permitted to install their own copies of any software onto City computers. Likewise, employees are not permitted to copy software from a City computer to be used on any other computer unless such installation is in accordance with the applicable licensing agreement and has been previously authorized by the Department Head or designated personnel. Any employee, who knowingly makes, acquires or uses unauthorized copies of software licensed to the City of Tomball or who places or uses unauthorized software on the City of Tomball premises or equipment shall be subject to disciplinary action.

H. HARDWARE

Any employee's personal computer or equipment that is attached to the City of Tomball's network is subject to all rules within this policy. No hardware shall be installed or removed from the City of Tomball's computer without authorization from the Department Head or designated personnel and notification to the IT Department.

I. LAPTOPS

Laptops are assigned to individuals and/or departments. Employees who remove them from designated office spaces will take personal responsibility for the safety of these items.

Employees may be held liable should laptops be damaged, lost or stolen while in an individual employee's possession.

J. AUDITS

The City reserves the right at any time to conduct audits of any or all of the City of Tomball's computers to ensure that the City is in compliance with all software licenses. Unauthorized software will be deleted upon detection.

K. ANTI-VIRUS

All devices that are attached to the city network must have authorized and licenses anti-virus solutions installed and operations. Any device that is found not to have a legal copy of an anti-virus will be subject to removal and diagnostic testing. Presently, the City of Tomball devices that are authorized for day-to-day usage has the licensed anti-virus protect software that is in operation.

L. NON-STANDARD HARDWARE

All hardware that is allowed to be on the City of Tomball network will be authorized and delivered from the City of Tomball IT Department. Personal or 3rd party hardware will be limited to the guest wireless network only.

M. MULTI-FACTOR AUTHENTICATION

It is the standard in the City of Tomball for all users be required to authenticate to any device with the use of a pre-loaded Multi-Factor Authentication (MFA) tool. Currently, the City of Tomball has authorized the use of the Microsoft Authenticator solution. The Internal IT Team are subjected to an additional MFA tool for accessing backend network such as servers and network hardware.

N. HARDWARE PROCUREMENT

No hardware will be added to the City of Tomball network that has not been scoped or approved by the IT Team prior to procurement. All hardware and required solutions must be compliant with the overall City of Tomball hardware standards.

3.08 MEDIA CONTACTS

The City Manager's office and designated public information officers are authorized to serve as liaisons to media representatives regarding policy issues. Other employees are not authorized to make statements on behalf of the City, unless directed to do so by the Department Head and in response to an inquiry for routine factual information relating specifically to his/her duties as a city employee, and not relating to litigation, legal opinions or City personnel matters. If an employee receives an inquiry, he/she should report the inquiry to the Department Head, and

describe any response made to such inquiry. Nothing in this handbook prohibits the exercise of constitutional rights, which generally protect communications made as a citizen on matters of public concern, but not communications made as an employee on matters of personal interest.

3.09 SOCIAL MEDIA POLICY

This policy addresses the responsibility of all employees with regard to their personal use of social media. This policy also outlines the protocol and procedure for employee and volunteer use of social media to disseminate public information and/or promote special events, programs, and services on behalf of the City of Tomball.

A. DEFINITION

For purposes of this policy, “social media” shall mean the use of technology in combination with electronic social networks of any type. Social media activity includes but is not limited to texting, blogging, posting, and other actions involving technology and social media sites.

The term “Employee”, in this section, shall mean a full-time, part-time, or contract employee or volunteer for the City. This policy applies to all city departments and all employees.

B. PROHIBITED SOCIAL MEDIA USE/ACTIVITY – TIK TOK

1. Pursuant to Senate Bill 1893, governmental entities, as defined below, must establish a covered applications policy:
 - A department, commission, board, office, or other agency that is in the executive or legislative branch of state government and that was created by the constitution or a statute, including an institution of higher education as defined by Education Code Section 61.003.
 - The supreme court, the court of criminal appeals, a court of appeals, a district court, or the Texas Judicial Council or another agency in the judicial branch of state government.
 - A political subdivision of this state, including a municipality, county, or special purpose district.
2. This policy applies to all City of Tomball full- and part-time employees, contractors, paid or unpaid interns, and other users of government networks. All City employees are responsible for complying with this policy.
3. A covered application is the social media service TikTok or any successor application or service developed or provided by ByteDance Limited, or an entity owned by ByteDance Limited. A social media application or service specified by proclamation of the governor under Government Code Section 620.005.

4. Except where approved exceptions apply, the use or installation of covered applications is prohibited on all government-owned or -leased devices, including cell phones, tablets, desktop and laptop computers, and other internet-capable devices.

The City of Tomball will identify, track, and manage all government-owned or -leased devices including mobile phones, tablets, laptops, desktop computers, or any other internet-capable devices to:

- a. Prohibit the installation of a covered application.
 - b. Prohibit the use of a covered application.
 - c. Remove a covered application from a government-owned or -leased device that was on the device prior to the passage of S.B. 1893 (88th Leg, R.S.).
 - d. Remove an application from a government-owned or -leased device if the Governor issues a proclamation identifying it as a covered application.
5. The City of Tomball will manage all government-owned or leased mobile devices by implementing the security measures listed below:
 - a. Restrict access to “app stores” or unauthorized software repositories to prevent the installation of unauthorized applications.
 - b. Maintain the ability to remotely wipe non-compliant or compromised mobile devices.
 - c. Maintain the ability to remotely uninstall unauthorized software from mobile devices.
 - d. Other Governmental Entity-implemented security measures.
 6. To provide protection against ongoing and emerging technological threats to the government’s sensitive information and critical infrastructure, the Department of Public Safety (DPS) and the Department of Information Resources (DIR) will regularly monitor and evaluate additional social media applications or services that pose a risk to this state.

DIR will annually submit to the Governor a list of social media applications and services identified as posing a risk to Texas. The Governor may proclaim items on this list as covered applications that are subject to this policy.

- a. If the Governor identifies an item on the DIR-posted list described by this section, then the City will remove and prohibit the covered application.
- b. The City may also prohibit social media applications or services in addition to

those specified by proclamation of the Governor.

7. **Exceptions:** The City may permit exceptions authorizing the installation and use of a covered application on government-owned or -leased devices consistent with the authority provided by Government Code Chapter 620.
- a. Government Code Section 620.004 only allows the City to install and use a covered application on an applicable device to the extent necessary for:
 - (1) Providing law enforcement; or
 - (2) Developing or implementing information security measures.
 - b. If the City authorizes an exception allowing for the installation and use of a covered application, the City must use measures to mitigate the risks posed to the state during the application's use.
 - c. The City must document whichever measures it took to mitigate the risks posed to the state during the use of the covered application.

C. EMPLOYEE PERSONAL USE OF SOCIAL MEDIA

1. The lines between public and private, personal and professional can become blurred in on-line social networks. With that in mind, below are guidelines for social media use by City employees while off duty.
2. Employees who use social media for personal use should not discuss information about the City's employees, citizens, vendors, issues, business, or legal matters without express consent to do so. Posting of confidential information may violate state law and subject the user to criminal penalty.
3. Personal use of social media while off duty must not interfere with or conflict with the employee's duties or job performance, utilize the employee status as a City employee to bolster his opinion or violate any City policy. Employees are encouraged to act responsibly while off duty and to exercise good judgment when using social media.
4. Employees should consider the following guidelines for personal use of social media:
 - Respect coworkers and the City. Do not post any confidential information obtained through employment with the City and/or pictures on the Internet that may defame, embarrass, insult, demean or damage the reputation of the City or any of its employees.
 - Do not post any information and/or pictures that may constitute violation of any City policy.

- Do not post pictures containing images of City uniforms or insignia, City logos, City equipment or City work sites.
- Do not permit or fail to remove postings violating this policy, even when placed by others on the employee's blog. Recognize that postings, even if done off premises and while off duty could have an adverse effect on the City's legitimate business interests.
- Do not link from a personal blog or social networking site to the City's internal or external web site.
- Do not post on social media sites the name, trademark, slogan or logo of the City.
- Do not use City names or identifiers for your personal social networking accounts or email accounts.
- The City may require removal of any material that is disruptive to the workplace or impairs the mission of the City.

The City has a vested interest in protecting its confidential information and in encouraging employees to engage in communication with people outside the City that, not only reflects positively on the employee as an individual, but also on the City.

D. USE OF SOCIAL MEDIA ON DUTY

The City of Tomball permits the use of social media while on duty for the sole purpose of conducting City business and only with department director approval. Alternately, the City prohibits all personal use of social media while on duty regardless of whether the personal use is on a personal device or city-owned equipment, public Wi-Fi or city-owned private network unless such use is expressly permitted by the department director.

1. All communication representing the City through social media outlets should remain professional in nature. Incomplete, inaccurate, inappropriate, threatening, demeaning, harassing or poorly worded postings may be harmful to the City's reputation or violate City policy. Such wording will be removed by the Information Technology Services Department.
2. Employees bear full responsibility for the material they post on social media sites. Inappropriate usage of social media can be grounds for disciplinary action, up to and including termination.
3. Public messages relating to City of Tomball activities on social media sites and/or any messages that might act as the "voice" or attempt to reflect the views of the City of Tomball must be approved by the department director.

4. Employees shall not ignore copyright laws, cite, or reference sources inaccurately. Plagiarism is prohibited.
5. All information published on social media sites must comply with City of Tomball's privacy and/or data policies. This includes comments, pictures, video, audio, or any other multimedia posted on social networking sites, blogs, and forums.
6. Media inquiries generated on social media sites should be referred to the City Secretary or City Manager.

E. OFFICIAL SOCIAL MEDIA SITES

1. Official social media sites representing the City of Tomball will be the property of the City of Tomball. All social media sites and email accounts shall be established by the Information Technology Department.
2. The Information Technology Department shall be responsible for the technical oversight of the City of Tomball's social media formats to include:
 - Establishing social media sites and related email accounts.
 - Maintaining a list of social media domains, account logins and passwords and changing passwords. Notification to IT is required if an employee is no longer designated to update content on a social media site(s).
3. Social media formats must meet one or both of the following purposes:
 - Provide residents of Tomball information about City events, activities and issues.
 - Promote the positive aspects of the City of Tomball to those in and outside the community.
4. The City's official website, www.tomballtx.gov, will remain the primary location for internet content regarding city business, services and events. Whenever possible, links within social media formats should direct users back to the City's website for more information, forms, documents or on-line services necessary to conduct business with the City of Tomball.
5. A request to the Information Technology Department and approval by the City Manager are required prior to the establishment of any social media site. Requests to the Information Technology department must include:
 - Purpose for the site and intended content to be posted/shared including the primary audience to be served;

- Indication of how often the site's content will be reviewed and updated to ensure material accuracy and appropriateness;
- Identification of individual(s) responsible for managing/overseeing and corresponding with the public (employee's name and position must be included) as well as indicating what provisions will be made if the responsible party leaves the position or is absent.

F. CONTENT MANAGEMENT FOR SOCIAL MEDIA SITES

1. Only designated department employees approved by the Department Director will have authority to publish content on official social media sites of the City of Tomball.
2. Department directors are responsible for monitoring site activity and ensuring content is consistent with the goals and objectives of the City.
3. Departments are responsible for responding to public commentary, inquiries or complaints. Responses must be approved by the Department Head.
4. Communication through social media is a public record. Both the posts by City employees and any feedback by others will be part of the public records of the City of Tomball and will be subject to the Texas Public Information Act (Chapter 552 of the Texas Government Code). Designated department employees posting content on these sites will be responsible for maintaining copies of content posted to comply the City of Tomball Records Management Program.
5. Content posted by "friends," "followers" or "fans" will not constitute a representation, agreement or endorsement on the part of the City of Tomball. The City of Tomball Information Technology Department reserves the right to delete any comment or posting that is deemed inappropriate, malicious, offensive, threatening, profane or insulting. Content that promotes, fosters or perpetuates discrimination on the basis of race, creed, color, age, religion, gender, marital status, disability, national origin or sexual orientation will not be permitted. Users who violate these guidelines may be blocked from posting commentary to City of Tomball social media sites/pages.
6. Any comments posted by external parties on City of Tomball social media sites are not official public testimony concerning any project or program. An opinion expressed on a City of Tomball page is posted for discussion only and is not a substitute for a formal statement in public hearing process.
7. If a question arises regarding the use or posting of confidential information (e.g. litigation, investigations, etc.) on a social media site, the matter shall be referred to the City Attorney for review. The information in question shall not be posted,

or if already posted, shall be removed until an opinion is rendered by the City Attorney. The City Manager or designee reserves the right to restrict or remove City information from an official City social media site if the City Manager believes that the information does not serve the best interests of the city.

G. DISCLAIMER

Each Official City of Tomball Social Media Site/Page must include a Disclaimer that contains the following information:

“The City of Tomball does not warrant or make representations or endorsements as to the quality, content, suitability, accuracy, or completeness of the information, text, graphics, links, and other items contained on a social media site’s server or any other server. Such materials have been compiled from a variety of sources, and are subject to change without notice from the City. The City’s primary and predominant internet presence shall remain the City’s official website at www.tomballtx.gov and no other website or social media site can characterize itself as such.

Except to the extent required by law, commercial use of the materials is prohibited without the written permission of the City.

Some of the links on the City’s social media pages may lead to resources outside the City of Tomball municipal government. The presence of these links should not be construed as an endorsement by the City of these sites or their content. The City is not responsible for the content of any such external link. The responsibility for content rests with the third party organizations that are providing the information.

Comments posted on this site by “friends,” “fans,” or “followers” or others will be monitored and any postings or comments that are disrespectful, offensive, dishonest, or do not accurately reflect the views, values or objectives of the City of Tomball will be deleted without notice.

Except to the extent required by law, communications made through e-mail and comments posted shall in no way be deemed to constitute legal notice to the City of Tomball or any of its agencies, officers, employees, agents, or representatives with respect to any existing or potential claim or cause of action against the agencies, officers, employees, agents or representatives where notice to the City is required by any federal, state or local laws, rules or its regulations. Notice of any claim must be filed in writing to the City Secretary of the City of Tomball, 401 Market St., Tomball TX, 77375.

H. ENFORCEMENT

1. Violations of this policy may result in immediate revocation of any or all electronic communications access and user privileges and may be grounds for disciplinary

action up to and including termination. Certain violations could result in civil or criminal liabilities for the user. Individual supervisors do not have the authority to make exceptions to this policy.

2. No employee or volunteer should have any expectation of privacy or confidentiality when using any City resource, including the city's public and private networks. The City reserves the right to access, intercept, monitor and review all information accessed, posted, sent, stored, printed, or received through its communications systems or equipment at any time.
3. All social media access and use involving City equipment and resources are subject to the City's Internet, Intranet, and Email Use Policy.

I. REPORTING VIOLATIONS

The City urges employees to report any violations or possible perceived violations to their supervisor, department director, or the Human Resources Department. Violations include discussions of the City and its employees and patrons, any discussion of personal information and any unlawful activity related to blogging or social networking.

3.10 POLITICAL ACTIVITY

An employee may not endorse a candidate for federal, state or local public office while on-duty or permit the display of the City logo or the use of any city equipment or property in support of such candidates. All employees shall notify their supervisor when seeking or accepting nomination or election to any public office that provides enumeration for the same (Article 16, Sec. 40, Constitution, State of Texas). The determination will then be made, on a case by case basis, as to whether there is any conflict with the employee's position with the City. Employees who are elected or appointed to a public office are required to resign from City employment, if the candidacy or position creates a conflict of interest with their City position, or the position provides for remuneration.

An employee may not engage in political activity relating to a campaign for an elective public office or a proposition to be voted on by the public while in City uniform, on-duty, or while representing or acting on behalf of the City. For purposes of this policy, to engage in political activity includes:

1. Using or granting permission to use his or her job title for political activity.
2. Making a speech to a group or gathering supporting or opposing a candidate or proposition.
3. Distributing information relating to the campaign of a candidate or a proposition.

4. Wearing a campaign button while in uniform.
5. Circulating or signing a petition for a candidate or proposition.
6. Soliciting votes for a candidate or proposition.
7. Using City equipment to promote a candidate or proposition.
8. Soliciting campaign contributions for a candidate or for or against a proposition.
9. Any activity supporting or opposing a candidate or proposition expressed in a manner, time, or location that the public might reasonably believe represents a position of the City.
10. Any activity supporting or opposing a candidate or proposition expressed in a manner, time, or location that disrupts or interferes with the operations or effectiveness of City operations.

3.11 OUTSIDE EMPLOYMENT

While employed by the City, regular full time employees must notify their Supervisor before accepting additional employment. Employment at the City of Tomball is considered to be an employee's primary employer. Employees are subject to certain restrictions outlined as follows:

1. The City requires that employees' activities and conduct away from the job must not compete or conflict with or compromise the City's interest, or adversely affect job performance and the ability to fulfill all responsibilities to the City. This requirement, for example, prohibits employees from performing any services for customers on non-working time that are normally performed by City personnel. This prohibition also extends to the unauthorized use of any City tools or equipment. In addition, employees are not to solicit or conduct any outside business during paid working time, except for those exempt employees who, with permission of the City Manager, are able to structure their City employment so that outside employment is not an interference with their City job requirements.
2. All full-time employees must obtain prior approval from their Department Head before any outside employment is undertaken. Employee requests for permission to accept outside employment, including self-employment, must be submitted in writing to the employee's Supervisor and to the Director for final approval. The request must state any pertinent information about the outside employer, the nature of the job, and the hours of employment. The Director's decision will be final.

3. It is the responsibility of the employee to submit a new request for permission for outside employment annually to their Director for approval. Also, if at any time during the course of the outside employment that the employee's Director changes, a new request should be submitted.
4. Employees are cautioned to consider carefully the demands that additional work activity will create before requesting permission to seek or accept outside employment. Outside employment will not be considered an excuse for poor job performance, absenteeism, tardiness, leaving early, refusal to travel, or refusal to work overtime or different hours. If outside work activity does cause or contribute to job-related problems, it must be discontinued, and, if necessary, disciplinary procedures will be followed to deal with the specific problems.
5. Employees may not hold outside employment while on FMLA leave, sick leave, disability leave or while receiving worker's compensation benefits unless expressly authorized in writing in advance by the Director and City Manager.

This policy supplements and supports department defined policies already in place.

3.12 SOLICITATIONS

Solicitation and distribution of literature or goods in employee work areas by non-employees is prohibited. The City may authorize a limited number of fund drives for charitable organizations.

3.13 SMOKING AND TOBACCO PRODUCTS

Employees must comply with the City's ordinance prohibiting the use of tobacco products in any City-owned building, facility or motor vehicle. Employees will be allowed to smoke only in designated smoking areas, as determined by State and Federal guidelines.

In this policy, the "use of tobacco products" means the inhaling, exhaling, burning or carrying of any lighted cigar, cigarette, or other combustible tobacco product in any manner, including cigarettes and cigars; the chewing of tobacco; and the use of snuff.

3.14 WEAPONS

An employee licensed to carry a concealed handgun under Texas law may not carry the concealed handgun or prohibited weapon into a City building, in a City vehicle, or on the employee's person while on duty as a City employee, unless the employee is a certified law enforcement officer for the City of Tomball. The City Manager may grant exceptions for former City of Tomball law enforcement officers that assume new positions in the City.

3.15 ACCEPTANCE OF GIFTS

A gift is an economic gain or economic advantage to an employee or to a relative of an employee. The purpose of laws and policies governing gifts to public employees is to regulate attempts to influence the employees to use their authority or discretion to the advantage of the person making the gift. The City Manager and Finance Director may accept gifts to the City and issue acknowledgements on behalf of the City, subject to restrictions set forth in the City's Code of Ordinances and Charter. Employees can only accept gifts when in compliance with Federal and State laws and this policy.

- A. It is a crime for a public employee to agree to make a decision in return for a payment or receipt of some other benefit.
- B. Employees may not accept gifts, favors, services or promises of future employment that could relate to or influence the performance of the employee's official duties.
- C. Employees may not use their position to gain special privileges or benefits and are to avoid participating financially in any business enterprise, which might influence their official decisions and judgments.
- D. Employees may not hold any position with any business enterprise or governmental unit, which would conflict with the proper performance of the employee's duties or responsibilities.
- E. Employees, employee's spouse and minor children are prohibited from soliciting or receiving gifts in any amount unless a specific statutory exception applies.
- F. Perishable items or gifts sent to an employee should be placed in a common area for all employees to share. Similarly, legally acceptable gift certificates sent to employees should be given to Human Resources for use throughout the year to benefit all employees.
- G. Benefit means any economic gain or economic advantage to an employee or relative of an employee but does not include:
 - 1. Political contributions made and reported in accordance with the law.
 - 2. Awards publicly presented in recognition of public service.
 - 3. Gifts or tokens of recognition presented by representatives of governmental bodies or political subdivisions who are acting in their official capacities.
 - 4. Commercially reasonable loans made in the ordinary course of the

lender's business.

5. Complimentary copies of trade publications,
6. Reasonable hosting, including travel and expenses, entertainment, meals or refreshments furnished in connection with public events, appearances or ceremonies related to official City business, if furnished by the sponsor of such public event; or in connections with speaking engagements, teaching or rendering other public assistance to an organization or another governmental entity.
7. Any economic gain or economic advantage conferred by any one person or organization if the economic value totals less than \$25.00 per calendar year.

H. Donation of Prohibited Gifts.

1. An employee who receives a gift that would be in violation of State law who wishes to donate the gift to a recognized tax-exempt charitable organization, must, within five (5) business days of receipt of the gift, file a written statement, through their Director, to Finance Administration describing the gift, the date it was received, the date it was donated, and to what organization it was donated.
2. An employee who receives a gift that would be in violation of State law who wishes to donate the gift to the City, must, within five (5) business days of receipt of the gift, file a written statement, through their Director, to Finance Administration. The Executive Team will determine the disposition of the gift.

3.16 SUBSTANTIAL INTEREST IN BUSINESS ENTITY

A member of the governing body or another officer whether elected, appointed, paid or unpaid, of the City of Tomball shall disclose their interest in a business entity as required and described as "substantial interest" in Chapter 171 of the Local Government Code.

A person has a substantial interest in a business entity if:

1. The person owns 10 percent or more of the voting stock or shares of the business entity, or owns either 10 percent or more, or \$15,000 or more of the fair market value of the business entity.
2. Funds received by the person from the business entity exceed 10 percent of the person's gross income for the previous year.
3. A person has a substantial interest in real property if the interest is an

equitable or legal ownership with a fair market value of \$2,500 or more.

A local public official is considered to have a substantial interest if a person related to the official in the first degree of consanguinity or affinity, as determined under Chapter 573 of the Government Code.

3.17 DRUG-FREE AND ALCOHOL-FREE WORKPLACE

The presence or use of illegal drugs or alcohol on the job is prohibited. It is the policy of the City of Tomball to:

- Maintain a safe, drug-free and alcohol-free work environment for its employees, conducive to effective city government operations, and to make a good faith effort to comply with the Federal Drug-Free Workplace Act of 1988, as amended.
- Prohibit the manufacture, distribution, dispensation, possession, sale or use of controlled substance drugs, intoxicants by employees at any time on-or off duty.
- Ensure that while on duty for or acting on behalf of the City, while wearing a City uniform and/or in a City vehicle, while on City premises, that employees will not be impaired by alcohol, intoxicants, or have controlled substances present in their systems not prescribed by a licensed physician.
- Require employees taking prescription medications that would impair their ability to operate vehicles, machinery, or equipment in a safe manner, to inform their supervisor of the potential danger.
- Subject employees to drug and alcohol testing when a supervisor has reasonable suspicion of drug or alcohol use; after certain accidents; when returning to duty as a result of self-referral; as follow-up after a determination that an employee was in need of assistance in resolving drug or alcohol problems; when promoted to a safety sensitive position; and for random testing if the employee is in a safety-sensitive position.
- Require employees to report any legally prescribed drug and/or substance that can impair them while working to the Human Resources Department and when applicable, provide the appropriate medical documentation in the timeframe requested.

Failure to disclose use of the legally prescribed drug/substance and/or failure to request any necessary, reasonable accommodations for the disability in which the drug was prescribed will result in

disciplinary action, including up to termination of employment.

- Ensure that employees understand that while employed with the City, having physician approval to use a prescribed drug and/or substance that could impair job performance does not preclude or inhibit the City from exercising its right to inquire and take reasonable action when potential job impairment is observed and/or impose discipline, up to termination of employment, whenever such action is deemed appropriate and permissible by law.
- Tampering, falsification, substitution, alteration, adulteration, or attempts to such of a specimen when requested to provide a specimen for testing, will result in a withdrawal of a job offer of employment to an applicant and immediate termination of a current employee.

SECTION 4 – SALARY ADMINISTRATION

The City of Tomball's compensation policies (salary administration and pay practices) have been designed to provide guidelines for ensuring fair and equitable practices and to maintain compliance with the Fair Labor Standards Act (FLSA).

4.01 CATEGORIES OF EMPLOYMENT

A. AT-WILL EMPLOYER

Employment at the City of Tomball is at-will for an indefinite period of time, until terminated by either the City or the employee, with or without cause. That means either party may end the relationship with or without prior notice or cause.

No written or oral representation by the City of Tomball personnel will create a contract of employment. No employment practices of the City are intended to create a contract of employment. No changes in the City's employment-at-will policy will be effective unless executed in writing and signed by both the City Manager and Human Resources Director and approved by City Council. The City also retains the right to change any terms, conditions, benefits or privileges of employment at any time without notice.

B. PROBATIONARY PERIOD

All employees serve an initial six (6) month probationary period, which at the City's discretion, may be extended for a period not to exceed twelve (12) months. Police Officers and Firefighters will serve a probationary period of one year. Termination of employment during this probationary period is final with no appeal. See Section 4.09 for more information.

C. PROBATIONARY EMPLOYMENT

Each new employee is placed into a probationary status until he/she completes the probationary period. The probationary period allows the supervisor or department director an opportunity to evaluate, train, coach and observe the employee's ability to perform assigned duties. Throughout the probationary period, the supervisor shall communicate and document the provisional employee's progress in his/her performance. If the employee's performance meets expected levels, they can be released from their probation after six (6) months via an evaluation as noted in Section 4.10.

If the employee's performance during the provisional period is less than satisfactory, the probationary period may, at the discretion of the supervisor and with approval of the Department Head and the Human Resources Department, be extended for an additional six (6) months. At any time during the probationary period an employee may be dismissed without further recourse. Even after completing the probationary period, an employee's employment with the City remains at-will in nature.

D. FULL-TIME EMPLOYEE

A full-time employee is defined as an employee who works a minimum of 40 hours a week or 2,080 hours annually in a full-time position; or an average of 53 hours a week or 3,014 annually in a full-time shift Firefighter position. Such employees are eligible for all City benefits. Full-time employees are further classified in one of the following categories:

1. **Exempt:** Certain employees, due to their position title and responsibilities, are exempt from the minimum wage and overtime provisions of the FLSA. Exempt employees primarily include those individuals occupying a bona fide executive, administrative, and/or professional position under the FLSA. All positions are evaluated to ensure accurate classifications and may be re-evaluated as necessary to ensure the position is classified appropriately.
2. **Non-Exempt:** An employee covered by overtime provisions of the FLSA. Non-exempt employees include hourly employees (where pay is directly related to the number of hours worked) and some non-exempt salaried workers (clerical, first-line supervisory, and paraprofessional job categories). Non-exempt employees may receive overtime pay or be offered compensatory time at the rate of time and one-half in lieu of overtime pay. Time and one-half is used in calculating overtime and compensatory time in situations where the actual hours worked exceed standard work week hours.
3. **Shift Firefighter:** An employee who is trained in fire suppression, has the responsibility to fight fires, and is either actually engaged in fire suppression work and/or non-fire related emergency responses, and who works 48 hours on, with 96 hours off.

E. PART-TIME EMPLOYEE

A part-time employee is defined as an employee who normally works less than 999 hours per calendar year on a continuous basis. Supervisors must prohibit part-time employees from working more than 999 hours in a calendar year. Part-time employees are eligible for annual performance evaluations but are not eligible for any City benefits except those required by law.

F. SPECIAL ASSIGNMENT EMPLOYEE

A special assignment employee is defined as an employee who works between 1000 and 2000 hours per calendar year on a continuous basis. Special Assignment employees are eligible for annual performance evaluations and are eligible for Retirement, Medical and limited vacation and sick leave.

G. TEMPORARY EMPLOYEE

1. Temporary/Seasonal

A temporary/seasonal employee is defined as an employee who, regardless of the number of hours worked per week, will not exceed 999 hours in a calendar year and may only work periodically for a specific season or time period. These employees are not eligible for any City benefits, except those required by law, and are required to re-apply each successive year for continued employment consideration.

2. Interns

A degree-seeking college student hired for a specific period of time (i.e., summer, school semester) for the purpose of career development or field experience, with no entitlement to a job upon completion. Intern positions are considered “At-Will” and will not exceed 999 hours in a calendar year. The goal of an internship at the City is for the intern to gain insight into local government and municipal operations and prepare for future leadership positions. The experience is for the intern’s benefit, not the City’s advantage, and interns will not be used to displace regular employees. Interns may be asked to complete tasks that enable them to gain job related experience, including tasks not directly related to their course of study. Any paid internships shall be established annually during the budget process and are subject to the availability of funds.

4.02 WORK SCHEDULES

Employees in all City departments, with the exception of certain shift positions in the Fire Department and the Police Department, will observe a forty-hour work week. The work period begins 12:00 a.m. Monday (6:00 a.m. for Shift Police Personnel and 7:00 a.m. for shift Firefighters) and consists of seven consecutive 24-hour periods. Employees working a standard forty-hour work week schedule will consist of five eight-hour shifts. Police Officers, Jailers, and Dispatchers may utilize a work week schedule consisting of eight, ten or twelve hour shifts, in accordance with FLSA, provided the service level to the community can be adequately maintained.

Each department head is responsible for exercising adequate supervision to ensure that employees are complying with established work schedules and that unscheduled work is performed only in bona fide emergencies. The department head is responsible for controlling starting and stopping time and all work times. If an employee starts work early or works late and the time for either period is seven minutes or less, then that time is considered incidental and will not require compensation. Overtime will begin the eighth minute and will be calculated in 15-minute intervals.

It is the employee’s responsibility to comply with department work schedules and to avoid work that is unscheduled or unauthorized.

While many City services are provided on a 24-hour basis, seven days per week, the City has established its core business hours as 7:45 a.m. to 5:00 p.m., Monday through Thursday, and 7:45 a.m. to 4:00 p.m. on Friday.

For the purposes of this handbook, a day is defined as 8 hours, unless otherwise noted.

A. WORK SCHEDULES FOR SHIFT FIREFIGHTERS

Under the 207K exemption of the FLSA, City of Tomball shift firefighters observe a 14-day work cycle for the purposes of calculating overtime. For shift firefighters, the work cycle

begins at 7:00 a.m. on Monday and concludes at 6:59 a.m. 14 days later. Fire Department personnel on a 48-hour shift are regularly scheduled to work an average of 53 hours per week, based on 48-hour shifts with 96 hours off between shifts. Days off and shifts may change to meet the business needs of the city. For Shift Fire Personnel, the workday of 24-hour employees is considered to be 12 hours of leave for accrual/usage purposes.

B. WORK SCHEDULES FOR EXEMPT EMPLOYEES

Exempt employees work at the discretion of their department head or the City Manager and may be required to work hours in excess of the normal work week. Exempt positions are not eligible for overtime payment or the accrual of compensatory time. Therefore, the department head may define the work hours and hold the employee accountable to a specified schedule without affecting the exempt status under the FLSA.

The department head shall be available and accessible during the City's core business hours, as well as outside of those established hours as needed to ensure City services and programs are available.

C. WORK SCHEDULES FOR NON-EXEMPT EMPLOYEES

Non-exempt employees in all City departments will observe a forty-hour workweek. Directors, with approval of the City Manager, may establish the work schedules for their non-exempt employees based on providing the most comprehensive customer service to the public and to internal customers.

For purposes of calculating overtime under the FLSA, the work week begins on Monday at 12:00 a.m. (midnight) and ends on Sunday at 11:59 p.m., except for fire and police shift personnel. This work week is defined for all types of shifts with the exception of a 9/80 schedule which has a workweek defined as beginning on Friday at 11:00 a.m. or 11:30 a.m. and ending on Friday at 10:59 a.m. or 11:29 a.m.

Non-exempt employee positions shall record each workday separately with respect to hours worked. Any hours worked outside of a normal work week schedule must be recorded on the time clock applicable to each workday. As set out above, any overtime must be approved in advance in writing, by a supervisor. If an employee leaves a work site periodically during the workday for personal reasons, the employee shall reflect the lost time on the time clock (i.e. vacation, sick leave, compensatory time, etc.). Hours must be recorded in increment of .25 hours (15 minutes).

D. ALTERNATIVE WORK SCHEDULES

This alternative work schedule policy is designed to help create a supportive work environment that will benefit our organization and employees. These goals include improved work-life balance, increased employee satisfaction, collaborative support and enhanced adaptability. Employees may qualify for alternative, remote and hybrid work schedules if their job roles are suitable for such arrangement and there is sufficient staffing to provide customer service at their respective work sites. Managers/Department Heads will assess alternative

work schedules based on the specific requirements of the department involved, the needs of the team and the City.

Approval Process

To request approval of an alternative work schedule arrangement, the Department Head should submit correspondence on an internal memo addressed to Human Resources. The letter should include the following details:

- Desired work schedule for the department, group of employees, or individual
- Whether the department and/or employees have interactions with the public, how often and how services/needs of the public will be addressed with proposed schedule
- The department's productivity plan that addresses staffing levels, operational continuity, and accessibility to technology/software to perform the work
- Any/all potential challenges and solutions

Human Resources will review the request to ensure the above criteria has been met and forward to the City Manager for final approval. The City Manager will take the following factors into consideration and actions as part of the approval process:

- Department/employee job functions and performance
- Team dynamics
- Consultation with HR and/or the Department Head

The City Manager will provide the Department Head a response within 10 business days. The response will either approve the request, deny it or propose adjustments. A response of proposed adjustments should not be considered a guarantee or create an implication of approval. A new request can be submitted at any time after a denied request, provided the substantive information of the new request is not the same or substantially similar to the denied request.

Periodic Evaluations

After approval of the alternative work schedule request, the City Manager will conduct periodic evaluations, at the City Manager's discretion, of Department Heads to ensure the goals/objectives of the City and department are met.

If the City Manager determines and/or receives sufficient information that the department is unable to successfully maintain operations/staffing levels utilizing the alternative work arrangement, the City Manager may terminate the arrangement at any time, with or without

notice. Approval of any future requests for an alternative work schedule after involuntary termination by the City Manager is in the sole discretion of the City Manager.

E. AUTHORITY TO WORK OVERTIME

All employees may be required to work overtime when necessary as determined by departmental management. All overtime must be pre-approved. Specific overtime assignments shall be rotated and allocated as evenly as possible among employees qualified to do the work. Employees are expected to respond to a reasonable request to work overtime and may be subject to disciplinary action for failing to stay or report for overtime work.

Any overtime work performed outside of an employee's normal work week must be promptly recorded and documented for purposes of maintaining an accurate payroll as set out below. Overtime shall only be granted with prior consent by the employee's supervisor and must be recorded and approved on the time sheet. Hours must be recorded in increments of .25 hours (15 minutes). Employees who work overtime without authorization are subject to disciplinary action, up to and including termination. By issuing an employee a cell phone, laptop or any similar remote access device, the City does not give such employee permission to work outside of a normal work week schedule and any overtime work involving such equipment also must be approved in advance.

Non-exempt employees, who are being paid overtime or provided comp time, are responsible for notifying their immediate supervisor if their normal work assignment cannot be completed within the established work hours, and shall not perform any work outside of their normal work week schedule unless expressly authorized do so in writing, in advance by a supervisor.

F. WAIVER PROHIBITED

The requirement that overtime must be paid after 40 hours a week or 106 hours in a 14-day cycle for shift fire personnel may not be waived by agreement between any employee and the City.

4.03 PAY PROCEDURES

A. BI-WEEKLY PAYROLL

The City of Tomball operates on a bi-weekly payroll system and paychecks are issued 26 times a calendar year, except every 7 years, there are 27 pay checks issued in a calendar year.

B. DIRECT DEPOSIT AND CHECK STUBS

All employees are required to have direct deposit for their paycheck. Check stubs or deposit confirmation are given to employees on or before a payday. Each employee shall check each deposit confirmation for accuracy and report errors as soon as possible.

C. ERRORS IN PAY

It is the employee's responsibility to notify Payroll, if the employee detects errors in a paycheck. This includes over and under payments, errors in deductions, and other information that would cause a discrepancy in the net or gross income of the employee. If an error occurs, which results in an overpayment to an employee, the employee will be required to reimburse the overpayment to the City. If an overpayment error occurs on the employee's final paycheck, corrections must be made in cash or cashier's check. If an error results in underpayment, Payroll will rectify the problem as soon as possible.

4.04 OVERTIME PAY PROCEDURES

Exempt positions are not eligible for overtime pay or the accrual of compensatory time. Human Resources shall maintain a listing of all positions, showing their designation as either exempt or non-exempt.

A. DEFINITIONS

Overtime is defined as hours worked, by non-exempt employees during any FLSA-defined workweek, which exceed 40 hours specified for such workweek or exceeds 106 hours in a 14-day cycle for non-exempt shift firefighters.

For the purpose of determining overtime, "hours worked" shall include hours recorded during which the employee is performing duties or functions of their job or authorized and adopted City holidays (including Floating Holidays).

Overtime will not be paid or compensatory time will not be accrued until the allowable number of hours has been surpassed for a given workweek regardless of the daily schedule of an eligible employee. All non-exempt employees who are directed to work after completing work beyond the normal 40-hour schedule or 106-hour schedule (shift-firefighters) will begin to accrue overtime hours to be compensated in one of two manners:

1. **Compensatory time:** accrued at an additional one- and one-half times (1.5 times) the overtime hours worked; or
2. **Overtime Pay:** paid at one and a half times (1.5 times) the employee's hourly rate.

B. COMPENSATORY TIME

1. ACCRUAL

Non-exempt personnel, excluding Police Officers may accrue a maximum of 80 hours of compensatory time for hours worked (53 hours of actual overtime worked). Non-exempt Police Officers and Firefighters may accrue a maximum of 160 hours of compensatory time for hours worked (106 hours of actual overtime worked). When compensatory time is used, it is not counted as time worked for calculation of overtime.

A non-exempt employee who has accrued the maximum number of compensatory hours for his/her position, shall thereafter be paid in money for any overtime hours worked until such time that the employee's compensatory time has been reduced below the maximum permitted (80 or 160 depending on position).

2. RECORD KEEPING OF COMPENSATORY TIME

Payroll records shall reflect the number of hours of compensatory time earned and used by each non-exempt employee in each pay period. The regular timesheets will provide a record of all overtime, both paid and compensatory time earned and used.

3. PROMOTION OF A NON-EXEMPT EMPLOYEE TO AN EXEMPT POSITION

When a non-exempt employee is promoted to an exempt employment status, the employee shall have the compensatory time balance cashed out prior to or at the effective date of the promotion.

C. OVERTIME AND LEAVE

If an employee works in excess of 40 hours during a regular workweek or 106 hours in a 14-day cycle for shift firefighters, the employee will be paid overtime pay or will be provided compensatory time.

1. OVERTIME AND VACATION TIME

If an employee exceeds 40 hours during a regular workweek or 106 hours in a 14-day cycle for shift firefighters and has recorded hours for Vacation, the employee can choose between having the excess hours returned to the employee's Vacation leave bank (also called "time flexing") or being paid at their regular rate of pay for those hours.

- a. If the employee chooses to "flex" their time and return Vacation leave in excess of 40 hours/106 hours to their Vacation leave bank, this action MUST be completed by the employee and their supervisor prior to submitting the employee's timecard to Payroll.
- b. If the employee chooses to be paid for Vacation hours, the employee will be compensated for the Vacation leave at their regular rate of pay and the Vacation leave will be deducted from the appropriate leave bank. Any Vacation hours recorded in this scenario will not count towards the employee's actual hours worked for the purpose of determining Overtime.

2. OVERTIME AND ALL OTHER LEAVE

Sick Leave, Funeral Leave, Emergency Leave, Citizenship Leave, and Comp Time are not considered time worked for the purpose of calculating overtime.

D. OVERTIME AND HOLIDAYS

Employees, except for shift fire and police personnel, will be paid a rate of one and one-half times their regular hourly rate for the holiday hours worked. Shift police and fire personnel who are required to work on an official holiday will be paid a rate of one and one-half times their regular hourly rate for the entire shift that actually begins on the holiday. This is in addition to any holiday pay earned by the employee.

4.05 TIME AND PAY FOR ON-CALL, CALLBACK AND CALL OUT SITUATIONS

A. ON-CALL AND CALL BACK

On-Call time is not considered time worked and is not compensable at the employee's regular hourly rate of pay. On-call time is the time outside of regularly scheduled working hours when an employee is assigned to be available for callback. The employee is free to pursue personal activities but must respond to summons (texting, telephone or radio) within designated guidelines determined by the Director. Employees must abide by the guidelines set out in the Drug-Free and Alcohol-Free Workplace Policy of this manual. An employee may receive a stipend at the rate determined.

Callback time is generally defined as the time the City requires an "on-call" employee to return to work on an unscheduled or emergency basis to work outside of the employee's regularly scheduled work hours. However, there are times when the "on call" employee must call in another employee with a particular expertise to fix an issue. This person is also considered to be on "call back" under this policy. The time that a non-exempt "on-call" employee is assigned to callback time will be considered as hours worked if during that time the employee is required to perform the employee's regular duties. When an employee is on an "on-call" status and is called to work, compensation will be given to the employee as defined below:

1. Return to the employee's usual place of work: any time worked less than 2 hours, will still be deemed as 2 hours of work, in accordance with the Fair Labor Standards Act. Any incident exceeding two hours will be paid according to the length of time requiring the employee's attention.
2. Remain near a telephone at a fixed location.

The following provisions also apply to call back time and pay:

- Call back time does not change the number of hours scheduled as on call.
- If a non-exempt "on-call" employee is subject to callback, any hour(s) worked during the period of callback will be paid at the employee's overtime rate, regardless of the actual number of hours worked in the workweek.

- Call back pay is not associated with time where employees are asked to remain at work, or held over for a shift. If an employee is asked to remain at work after their shift, pay will be subject to the Fair Labor Standards Act guidelines.
- Exempt employees are not eligible for callback pay.

Departments can make their own policies concerning what positions will be mandated for “on-call” duty and what the length of response time must be for employees to return to the work site.

On-call time and callback time must be reported on the employee’s bi-weekly timesheet, in accordance with the guidelines listed above.

B. CALL OUT

Non-exempt employees called back to work shall be paid at the rate of one and one-half times the regular rate of pay for the time worked, with a minimum of two hours of pay. The exception being where the call runs into the normal workday at which time a non-exempt employee’s pay would change to straight time. The call out time is separate from the normal 40-hour work week calculation.

4.06 STEP-UP, CERTIFICATION, EDUCATION AND LICENSE PAYS

A. STEP-UP PAY

When an employee is temporarily assigned the duties and responsibilities of a higher classification, that employee may receive additional compensation. Guidelines for step-up pay are as follows:

1. **Non-public safety positions:** The Department Head should provide a detailed, written justification to Human Resources as to all of the duties the employee is performing that are required in the higher classification to warrant the increase in pay. A minimum of (10) working days of service is required. Approval of the request for step-up pay must always be approved by the City Manager.

The following rate of pay applied will be either one of the two options, depending on what is most suitable for the circumstances and the employee:

- a. 3% above the employee’s current salary if the employee’s existing salary is in the higher classification pay range OR;
- b. The minimum salary of the higher classification, if the employee’s current salary does not exceed this minimum salary.

2. **Public Safety Positions (Police and Fire):** Pursuant to state law, firefighters and police officers who are required to perform the duties of a particular classification are entitled to be paid the salary prescribed for that position during the time the employee performs those duties.
 - a. The Department Heads of these departments will be required to document the following in the employee's timesheet:
 - Start date
 - Projected End date
 - Reasons for step-up pay
 - b. **Police:** When applicable, Police Captains that are temporarily assigned to "Acting Chief" will receive the minimum hourly salary for the job classification of Chief of Police with a minimum of (5) working days of service.
 - c. **Fire:** When applicable, the following rates of pay will be applied as "step-up" pay for fire personnel with a minimum of (12) hours of service:
 - \$1.00 – Firefighters to Driver Operators
 - \$2.00 – Driver Operators to Fire Lieutenants
 - \$3.00 – Fire Lieutenants to Battalion Chiefs
3. Approval of any request for step-up pay other than what is stated in this policy must be approved by the City Manager.
4. To be eligible for step-up pay, employees must meet the minimum qualifications of the higher position. Employees who act in a higher classification may not have the opportunity to perform all the duties of the position, but must satisfactorily perform all the duties that arise.
5. Qualifications, assignment duration, and actual duties performed should be considered by the Department Head to determine when step-up pay is appropriate. Employees in on-the-job training for a higher position are ineligible for step-up pay.
6. An employee acting in a higher position will receive step-up pay for hours worked. At termination of the temporary assignment, the employee is no longer in the acting capacity and the salary should be returned to the normal rate of pay. Nonexempt employees are paid overtime at the step-up pay rate while receiving step-up pay, provided it is consistent with City policy and/or other applicable federal/state law.

7. The temporary performance of the duties of a higher position by an employee who has not been promoted as prescribed by City policy may not be construed as a promotion of the employee.

B. CERTIFICATION AND EDUCATION PAY

The City of Tomball encourages its employees to participate in advanced training. Professional development is important to employees and is an overall benefit to the operation of the City. Levels of training and certification for professional development should be recognized. Therefore, the intent of this policy to establish criteria by which compensation for certificates and education pay are provided.

The City is authorized to modify an employee's pay rate based on the employee receiving a certification(s) and/or education pay for their position.

The following guidelines shall apply to all departments in administering certification and education pay:

- All incentive pay plans, additions, and/or deletions must be reviewed by Human Resources and approved by the City Manager or designee, as provided herein.
- All certifications, licensing and education plans are subject to and contingent upon City Council approval of an annual budget that funds these incentives.
- Certification and education pay may be provided to all eligible regular employees as outlined in this policy on a pro-rata basis, as determined by the City.
- None of the stated incentives within this policy is available at the Department Head and/or Assistant Department Director level.

1. Certificate Pay Eligibility

- a. All full-time employees shall be eligible for certification pay, with the exception of Department Directors and Assistant Department Directors.
- b. An employee must notify their supervisor or department director of their desire to obtain a certification that could be eligible for certification pay.
- c. The certification must be deemed beneficial to the City, must be used in employee's work responsibilities, and must not be a minimum requirement for their position.
- d. Certification pay shall be forfeited if an employee is transferred or transfers to a position where the certification is not applicable.
- e. Should an employee transfer to a department where the training becomes applicable,

the employee may then be eligible for certification pay.

- f. Certification pay will only begin upon presentation of documentation to the Human Resources Department and with the Department Director's approval, as provided herein.
- g. Should certification lapse, it is the employee's responsibility to immediately notify Human Resources. The following will take place upon lapse of certification:
 - Pay for certification that lapses shall cease immediately and any overpayment of lapsed certification shall be reported to HR and arrangement to pay back the overpayment shall be made.
 - Reinstatement of certification pay shall resume the pay period following submission of renewed certification to HR.
- h. No employee shall receive more than \$150 per month in certification pay.
- i. With the approval of Department Heads, the City will pay for the cost of job-related certification training.

However, should an employee elect to voluntarily leave the employment of the City within one year of receiving said training, the employee shall reimburse the City for the training. The amount of reimbursement shall be prorated down by 1/12th (one twelfth) for each month the employee remains with City following completion of the certification.

2. Education Pay Eligibility

The following criteria shall apply to education pay:

- j. Employee must be a full-time firefighter or police officer as defined in City policy.
- k. The incentive pay for an Associate's degree/60 hours of coursework is limited to \$600 annually (\$50 a month).
- l. The incentive pay for a Bachelor's degree is limited to \$1,200 annually (\$100 a month).

3. Language Pay

The City of Tomball recognizes that, in serving a diverse population, the use of a second language may be of benefit in providing quality service. Therefore, the City has developed a program to compensate employees who are proficient in the use of a second language.

All full-time employees, except for Department Directors or Assistant Department Directors, are eligible for language pay. Employees that are certified and receive language pay will be designated as City Translators and will be expected to serve in this role as the need arises. Management may regulate the number of certified employees by position or quantity, depending on organizational needs.

Testing information is available in the Human Resources Department. The current rate of pay for those who meet the guidelines is limited to \$900.00 per year.

4. Approved Certifications

The following is a list of certificates and licenses that have been approved for payment depending on position. This list is subject to change based on the budgetary considerations made by the City:

City Secretary

Texas Registered Municipal Clerk
 Certified Municipal Clerk (CMC)
 Master Municipal Clerk (MMC)

Community Development/ Permits

Texas State Plumbing Inspector
 Residential Building Inspector
 Residential Electrical Inspector
 Residential Mechanical Inspector
 Residential Energy Code Inspector/Plans Examiner
 Residential Plans Examiner
 Commercial Building Inspector
 Commercial Electrical Inspector
 Commercial Mechanical Inspector
 Building Plans Examiner
 Certified Floodplain Manager
 Permit Technician
 Certified Code Enforcement Officer
 Property Maintenance and Housing Inspector
 Certified Building Official

Court

Level 2 TMCEC
 Level 3 TMCEC
 Court Translator

Finance

Certified Government Finance Officer (CGFO)
 Certified Accounts Payable Clerk
 Certified Purchasing Manager
 Certified Public Accountant (CPA)
 Certified Government Financial Manager (CGFM)
 Certified Fraud Examiner (CFE)

Fire

Certified Internal Auditor (CIA)
Instructor I, II, III
Wildland FF
Hazmat Technician
Basic Fire Inspector
Intermediate Fire Inspector
Advanced Fire Inspector
Master Fire Inspector
Intermediate Fire Investigator
Advanced Fire Investigator
Master Fire Investigator
Officer I, II, III, IV
Driver/Operator**
Incident Safety Officer**
Hazmat Incident Commander**
Paramedic
TCOLE Peace Officer Certification (I-M)

Human Resources

SHRM-CP
SHRM-SCP
IPMA-CP
IPMA-SCP
Certified Payroll (CPP) Professional
Fundamental Payroll Professional (FPC)

IT

Microsoft System Administer for Workstations
Microsoft Administrator for Servers

Police

Intermediate Peace Officer
Advanced Peace Officer
Master Peace Officer
Intermediate Telecommunicator
Advanced Telecommunicator
Master Telecommunicator
Jailer Certification

Public Works (Utilities)

B Water
B Wastewater
A Wastewater (paid at \$750/yr. due to difficulty)
Back Flow Preventer Assembly Tester (BPAT)
Pesticide
HVAC License
State Plumbing Inspector
PACP (Pipeline Assessment Certification Program)
LACP (Lateral Assessment Certification Program)

MACP (Manhole Assessment Certification Program)
Commercial Driver's license (paid at \$1200)

Public Works (Parks/Streets)

Herbicide applicator license
Commercial Driver's license (paid at \$1200)

4.07 TRAVEL TIME

A. COMMUTE TIME

Travel time at the beginning or end of the workday is not compensable. Generally, an employee is not at work until they reach the work site. This includes travel to offsite locations where the employee may have a temporary assigned worksite (i.e. training in Houston). However, if a non-exempt employee is required to report to work to pick up materials, equipment or other employees, or to receive instructions prior to traveling to the worksite, then the time from the worksite to the final destination is compensable. An employee who operates a City vehicle need not be compensated for commute time simply because the employee is driving the vehicle, so long as it is for the employee's convenience. A non-exempt employee who is directed to chauffeur other employees by his supervisors is entitled to compensation.

B. OVERNIGHT TRAVEL

Travel time is compensable when it occurs during the non-exempt employee's normal work hours. Moreover, if the travel occurs during the normal working hours of a non-exempt employee, even if on nonworking days (i.e. Saturday or Sunday for an employee who works Monday to Friday), the time is compensable.

C. TRAVEL AND EXPENSES REIMBURSEMENT

Please refer to the City of Tomball Travel and Expense Reimbursement Policy for information regarding travel and expenses reimbursement.

4.08 LIGHT-DUTY ASSIGNMENT, REASONABLE ACCOMODATIONS AND FITNESS FOR DUTY

The City's return to work Light Duty Program is based on the belief that it is in the best interest of both the employee and the City for an employee to return to work in some capacity following an on the job-related illness, injury, or medical condition. Under this basis, Directors are instructed to work with Managers to identify possible Light Duty assignments. Attempts will first be made to provide Light Duty assignments in the department and division in which the employee currently works. If placement is not possible, then the Human Resources Department will attempt to place the individual in another department, based on physical ability skills and available assignments.

Light duty assignments are limited to those employees who have sustained an injury, illness, or other medical condition on the job. If an employee is unable to work at full duty capacity due to an injury, illness, or other medical condition, but is able to work in some capacity, they may be eligible for light duty.

The employee's treating health care professional must have the expectation that the employee will be able to work in a full-duty capacity. The employee must obtain a Doctor's Note from the health care professional that releases the employee to perform the assigned duties and submit it to Human Resources.

After the injury or onset of illness, an employee must provide medical documentation to Human Resources in 30-day increments in order to remain on light duty. The supervisor shall provide Human Resources with the light duty job requirements.

An employee who is released to return to work in less than a full-duty status by the health care professional may be required to work in a position or department other than his normal position or department. The City will consider returning the employee to work in a light duty work assignment resulting from a vacant position or work overflow.

Work duties will be assigned in accordance with the employee's limitations and knowledge, skills, and abilities and the needs of the City. **The decision to offer an employee a light duty assignment is made in the City's sole discretion and not a guaranteed right of the employee.** No Light Duty will be assigned unless a health care professional's release is provided.

A. EMPLOYEE RESPONSIBILITIES ON LIGHT DUTY

An employee with a light duty assignment will be required to continue to present progress reports to their supervisor after each doctor's visit that states the employee's progress and the expected date of return to full duty.

Employees with a light duty assignment may not work any second jobs that conflict with the restrictions set forth by the health care professional. This will be in effect until the employee is released for full duty by their health care professional.

An employee's participation in the Light Duty Program may be suspended and/or terminated for the following reasons:

1. The treating health care professional temporarily prohibits the injured employee from continuing with a Light Duty assignment.
2. There is no longer any assignment available within the City which can be performed by the injured employee, given their current restrictions.
3. The treating health care professional indicates that the injured employee has reached maximum medical improvement and will not be able to return to their

prior position with or without reasonable accommodation, in any reasonably foreseeable timeframe.

4. An injured employee has been on a light duty assignment for a period of 6 months, which is the maximum time allowed any employee to remain on Light Duty work without a recommendation of extension from the Assistant City Manager/City Manager.
5. The employee fails to comply with departmental policies and procedures, or any City policies and procedures.
6. If the employee fails to perform the assigned tasks, the employee will be removed and may be subject to disciplinary action.
7. The employee fails to comply with the terms and conditions of the Light Duty Program and/or fails to meet acceptable work standards and performance levels of the assigned position.
8. The City cannot make reasonable accommodations that meet the restrictions as outlined by the health care professional.
9. The health care professional releases the employee for full-time, regular duties without restrictions.
10. If work assignments conflict with restrictions.

The employee participating in the Light Duty Program will discuss with the supervisor the hours to be worked, not to exceed a 40-hour workweek.

The employee will be required to wear appropriate dress for the light duty assignment. This will be left to the discretion of the employee's assigned supervisor and in the case of Police and Fire personnel, the department's supervisor or the Chief's approval.

When possible, the employee shall attempt to schedule medical treatment or physical therapy appointments in an effort to minimize the interference with the employee's work schedule. It is the employee's responsibility to promptly return to work after Light Duty medical treatments or physical therapy appointments scheduled during normal work hours or to notify the Light Duty supervisor if unable to do so following each appointment with a health care professional.

B. DIRECTOR'S, MANAGER'S, SUPERVISOR'S RESPONSIBILITIES IN REGARD TO LIGHT DUTY

1. It will be the Director's/Manager's responsibility to assign an employee to light duty in the employee's regular department/division, whenever possible.

If light duty is not available within the employee's Department/Division, Human Resources will survey other Departments for suitable light duty assignments.

2. All light duty job offers must be made in writing.
3. It is the responsibility of the Director's/Manager that receives an employee on the Light Duty Program to:
 - a. Supervise the work of the light duty employee so that the performance standards of the assigned positions are met.
 - b. Notify Human Resources if the light duty employee fails to meet the performance standards of the position.
 - c. Notify Human Resources of any physical compliance rules or restrictions not adhered to by the light duty employee.

C. REASONABLE ACCOMODATIONS

It is the policy of the City of Tomball to provide reasonable accommodations for qualified individuals with disabilities who are employees or applicants for employment. The City of Tomball will adhere to all applicable federal, state and local laws, regulations and guidelines with respect to providing reasonable accommodations as required to afford equal opportunity to qualified individuals with disabilities. This includes, but is not limited to, compliance with the Americans with Disabilities Act of 1990 (ADA), as amended.

Definitions

1. Qualified Individual with a Disability: A qualified individual with a disability is an individual who satisfies the job-related requirements of the position and who can perform the essential functions of the position with or without reasonable accommodation(s). A disability could be a physical or mental impairment that substantially limits one or more major life activities, such as self-care, performing manual tasks, hearing, speaking, breathing and working. A major life activity could also include the operation of a major bodily function, including but not limited to functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine and reproductive functions. An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability. An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

2. Reasonable Accommodation: In general, a reasonable accommodation is a modification or an adjustment to a job, the work environment, or the way things usually are done that enables a qualified individual with a disability to enjoy an equal employment opportunity. An equal employment opportunity means an opportunity to attain the same level of performance or to enjoy

equal benefits and privileges of employment as are available to a similarly situated employee without a disability.

Examples of reasonable accommodations include (but are not limited to) making existing facilities accessible; job restructuring; part-time or modified work schedules; acquiring or modifying equipment; changing tests, training materials, or policies; providing qualified readers or interpreters; and reassignment to a vacant position. Accommodation may also include making modifications to existing leave policies and providing leave when needed for a disability, even when the leave might not be available to other employees.

Requests for Reasonable Accommodations

Employees: An employee seeking an accommodation for a disability should notify his/her supervisor that he/she needs an adjustment or change at work for a reason related to a medical condition. It is not necessary for the employee to specifically mention the ADA or use the words “reasonable accommodation.” These requests should be referred to the department head and the Human Resources Department for review.

Job Applicants: Job applicants seeking an accommodation should be referred to the Human Resources Department.

Procedures

The City will work with the employee/applicant and his/her health care provider(s) through an interactive process to identify a reasonable and effective accommodation for a disability. The request for a reasonable accommodation shall be forwarded to Human Resources and a written determination will be provided to the employee or applicant by the Director of Human Resources.

D. FITNESS FOR DUTY

The City of Tomball endeavors to provide a safe work environment for all employees. It is the responsibility of each employee to maintain the standards of physical and mental health fitness required for performing the essential functions of the position, either with or without reasonable accommodation.

1. **Serious Health Condition/Disabilities:** The City recognizes that employees with a potentially life threatening and/or infectious illness or physical and/or mental disabilities may wish to continue to engage in as many of their normal pursuits as their condition allows, including their employment. If these employees can perform the essential functions of their job, with or without a reasonable accommodation, without creating an undue hardship on other employees, and medical evidence indicates that their condition is not a direct threat to themselves or others, the City will treat them consistently with other employees.

2. **Medical Exams for Current Employees:** The Director of Human Resources may require a current employee to undergo a medical and/or psychological examination to determine fitness for continued employment, as may be necessary for the City to provide a reasonable accommodation; following an injury or accident; and as otherwise permitted in accordance with applicable laws.
3. **Medical Information from an Employee's Doctor:** Under certain circumstances (e.g., FMLA Certifications), Human Resources may require employees to provide medical information from their health care provider. In such cases, employees are to inform their health care provider not to provide any genetic information when responding to such request.
4. **Genetic Information:** In accordance with the Genetic Information Nondiscrimination Act (GINA), the City will neither request nor require genetic information of an employee or his/her family member, except as specifically allowed by GINA. To comply with GINA, employees are directed not to provide any genetic information when responding to any City request for medical information.

“Genetic information,” as defined by GINA, includes an individual’s family medical history, the results of an individual’s or family member’s genetic tests, the fact that an individual or an individual’s family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual’s family member or embryo lawfully held by an individual or family member receiving assistive reproductive services.

4.09 PROBATIONARY PERIOD

A. PURPOSE

The purpose of the probationary period is to allow newly hired full-time employees and the City the opportunity to measure and evaluate their satisfaction with the working relationship. At any time the employee or the City has the right to terminate the employment relationship, with or without notice, with or without cause. The City also retains the right to change any terms, conditions, benefits or privileges of employment at any time without notice. No employment contract either expressed or implied shall exist between the City and the employee for any duration, either specified or non-specified, during the introductory period.

B. LENGTH OF PROBATIONARY PERIOD

The length of the probationary period is as follows:

1. All full-time employees, excluding Police Officers, Firefighters and Dispatchers, shall complete a probationary period of six months from the date of hire.

2. Police Dispatchers shall complete a six-month probationary period from the end of their training and Police Officers and Firefighters shall complete a one-year probationary period from the end of their training.

At least 30 days before the end of the probationary period, the Supervisor must begin reviewing the employee's performance. At that time, if it is determined that the employee's performance is not satisfactory, the employee will be terminated from employment before the end of the probationary period. If it is determined that the employee's performance needs further evaluation, the Supervisor/Director may, before the end of the Probationary Period, recommend extending the employee's Probationary Period as provided below.

C. EXTENSION OF THE PROBATIONARY PERIOD

At the discretion of the Supervisor and Director and with the concurrence of the Director of Human Resources, an employee's Probationary Period may be extended up to six months.

D. POSITION CHANGES (INTERNAL MOVES)

Probationary periods will apply to all full-time employees that have a change in jobs (through reclassification, promotion, demotion, or reorganization) and are subject to a 6-month probationary period.

At the end of 6 months in the new position, the incumbent will receive a 6-month review to be documented as an update of record for the employee's personnel file and in the performance evaluation system. The 6-month review is not subject to an increase in pay but is to determine if an employee can continue in the position. If the employee is not performing satisfactorily, they are subject to disciplinary action.

An employee who changes positions (through reclassification, reorganization, demotion, or promotion) may not transfer or change jobs within the first 6 months of the action without the consent of their Director.

4.10 EMPLOYEE PERFORMANCE AND DEVELOPMENT SYSTEM

A performance evaluation is a measurement of an employee's work performance over a period of time and a developmental tool that is used as a means for a supervisor to communicate to an employee's essential job functions, skills, expectations, and at what level the employee should be performing.

The City of Tomball will conduct performance evaluations of employees at least annually, but supervisors and managers are encouraged to coach, mentor and train employees and provide feedback on a regular basis.

Formal performance evaluations will include a discussion between the employee and his/her immediate supervisor to determine goals and evaluate progress toward better performance and

personal development. Performance evaluation results will be used in determining merit increases and promotions. An employee's immediate supervisor will complete written performance evaluations with final written approval by the Department Head, Human Resources and the City Manager. Employees will be given a copy of the evaluation prepared by their supervisor.

Salary or merit increases may be given to reward individual performance and are subject to budgetary guidelines established by the City.

A. ELIGIBILITY

All full-time and part-time employees shall be evaluated based upon a performance evaluation plan, to include the City's guiding values, mandatory job duties and responsibilities, leadership and other criteria developed by the Supervisor/Department Head and the employee by August 31st of each year.

B. ANNUAL PERFORMANCE EVALUATION

The annual performance evaluation consists of two main areas: (a) Core Competencies and (b) Performance Metrics.

The Core Competencies measures the skills, knowledge, and abilities needed to perform and fulfill the employee's job responsibilities, while the Performance Metrics are measurements to indicate how well the employee is performing in their job.

The final evaluation must bear the signature of the supervisor/reviewer and the employee, if possible. If an employee will not sign an appraisal, a notation of "employee refused to sign" shall be made on the performance evaluation.

C. PERSONAL IMPROVEMENT PLAN

The PERSONAL IMPROVEMENT PLAN (PIP) is an important tool utilized to identify issues or concerns related to an employee's individual work performance, attendance and/or conduct. It also meant to provide the employee with an opportunity to accept personal accountability of these challenges, so the employee and their supervisor can collaboratively work together in finding solutions for improvement.

At any time an employee's performance falls below expected levels, the employee may be placed on a PIP and given 90 days to improve. If at the end of the 90-day period, the employee does not satisfactorily complete the terms or conditions of the PIP, the employee may be subject to further disciplinary action, up to and including termination, in accordance with directions provided by this policy handbook.

D. EMPLOYEE EVALUATIONS WHILE ON LEAVE OF ABSENCE

If an employee is out on an approved leave of absence, including but not limited to, leave due to an on-the-job injury, FMLA leave, or Military leave, then the employee shall be evaluated based

on their performance while at work for the most recent evaluation period prior to the absence. This is to include any evaluations for a merit increase.

E. PROBATIONAL PERIOD – EMPLOYEE PERFORMANCE LETTER

Each new employee in probationary status shall receive an Employee Performance Letter, written by their Supervisor/Department Head, at the completion of a 6-month probationary period and police officers/firefighters at the completion of a 12-month probationary period, following their training.

The letter should be drafted on internal City correspondence and consist of the following:

1. The employee's date of hire;
2. A detailed overview of the employee's job duties and responsibilities;
3. Clear and detailed evaluation of the employee's overall work performance;
4. Recommendation for release from probation, if applicable, and reasons why OR;
5. Recommendation to extend probation, if applicable and reasons why;
6. Areas for improvement, if applicable;
7. Goals to be met by next review period

Upon discussion with the employee and approval by the Department Head, the Department Head must submit the letter to HR within (3) three business days to file in the employee's personnel file. If additional action and/or discussion is warranted, the Department Head is encouraged to consult with HR.

F. GRIEVANCE PROCEDURES TO PERFORMANCE EVALUATIONS

If an employee disagrees with any part of the performance evaluation, the employee should move forward with the following steps:

1. Discuss the evaluation with the immediate supervisor and/or Department Head.
2. If areas of disagreement continue to exist, the employee may respond in writing in a separate correspondence, describing in detail the specific areas of concern and submit the grievance along with any supporting evidence to the HR Director within 5 business days from the date the evaluation was given.

At this time, the HR Director will review the grievance and submit all documentation to the Evaluation Grievance Committee (EGC) panel assembled by the HR Director, which will be comprised of (3) objective and non-interested department heads.

An employee may request an in-person hearing but can only represent themselves. No other City employee or third-party representative will be allowed to attend the hearing. The EGC will make a recommendation to the City Manager as to agreement or disagreement of the grievance and/or performance evaluation no later than 10 business days from the date of receipt by HR.

The City Manager will review all the documentation related to the grievance and make a final decision within 3 business days from receipt of the recommendation by the EGC.

The decision(s) made by the City Manager at the conclusion of this grievance process is considered final and not eligible for further appeal.

4.11 PAY PLAN, COMPENSATION GUIDELINES, AND JOB DESCRIPTIONS

A. COMPENSATION PHILOSOPHY

The City maintains a position classification system for all workers in an effort to apply sound principles of measurement to determine an internally equitable market value of each position in the City. A request for new classification changes will occur during the budget process each year.

The City's compensation program consists of, but is not limited to: salaries, health and wellness benefits, approved allowances (vehicle, cell phone, etc.), educational/licensing/certification pay, tuition reimbursements, and other benefits that are a blend of those offered by its competitors. Each job classification in the City will be assigned to the pay structure and will have a pay grade defined by the minimum and maximum dollar limits. The pay grade defines the pay opportunities for each position.

Pay structures shall be reviewed periodically to reflect the City's changing competitive position, economic conditions, and compensation objectives and shall be subject to the budgetary guidelines established by the City.

B. ESTABLISHMENT OF PLAN

The City Council shall establish the pay plan annually during the budget process, which includes compensation and salary structure recommendations made by the City Manager or his designee. One of the functions of the budget process is to consider the competing priorities for limited revenue resources. It may be determined that the City's current financial status cannot support the total cost. Conversely, in a positive financial condition, the City may consider increasing the percentages allotted. The financial status will affect both structure adjustments and individual salaries during any future fiscal years.

Generally, when any salary structure is adjusted, the employee's salary will be adjusted in order to maintain the employee's position in the structure. In addition, the employee may receive a budgeted merit increase. Conversely, if the City's financial status cannot support a structure adjustment and a merit increase in the same year, the City may elect to adjust the structure one year and in the following year provide a merit increase to employees with no structure adjustments or may elect to maintain the current pay structure until conditions change.

C. SALARY RANGES

Each position in the City has a salary range defined by minimum and maximum salary limits and a midpoint. The salary range defines the pay opportunities for the job. The salary ranges and midpoints are to be reviewed and revised to reflect changing competitive positions, economic conditions and compensation objectives.

Employees shall not be paid less than the minimum of the pay grade established for their position and increases shall not provide for employee salaries to exceed the maximum of the pay range for their position. The midpoint of the range is equivalent to the average salary paid in the market, with the basic compensation philosophy that an employee should be at or near the midpoint of the range when he or she has attained nine to ten years of tenure in the position.

Employees at the maximum of their pay range may, with the approval of the City Manager and as provided for in the budget, be eligible for lump sum payments that are not included in the base pay of the employee. The pay described above is nonrecurring and will not extend beyond the end of the fiscal year in which such pay is authorized and will be tied to satisfactory job performance.

D. JOB DESCRIPTIONS

The job description provides a general summary of the purpose, essential duties, responsibilities and requirements of a position. It is not intended to be a comprehensive listing of all tasks associated with the position nor an implied contract between the City and the employee. Job descriptions are required for all positions and will define the position as exempt or non-exempt.

The main objectives of the job description are:

1. To serve as a means of communication between the supervisor and the employee to clarify the responsibilities and expectations of the job;
2. To serve as the main resource to determine the salary range;
3. To serve as the basis for the annual performance appraisal;
4. To identify minimum qualifications and applied skills, as well as knowledge and ability for the purpose of recruitment, selection, promotion and training.

Employees are hired on the assumption that each employee will “perform other work related duties as required” that may not be specifically spelled out in their job description.

E. MERIT INCREASES

Generally, merit increases for employees are provided on a yearly basis at the time of the employee’s annual evaluation, subject to the employee’s performance meeting the merit criteria, financial feasibility for the City, leadership approval and other guidelines, as follows:

1. All merit increases must align with individual performance. Performance of “Meets Expectations” or above should be reflected in annual evaluations for those receiving a merit increase.
2. Merit increases are performance-based only and shall not be considered a mechanism to correct any perceived market or equity matters.
3. Employees on probationary status (new hire and/or promotional) are not eligible for a merit increase. Employees promoted during the evaluation period must have completed 12 months in that promoted position to be considered for a merit increase. Exceptions to this policy are subject to approval by the City Manager.
4. Employees subject to disciplinary action shall not be eligible for a merit increase. Employees that have been placed on a PIP and successfully completed the terms/conditions of the PIP during the evaluation period can be considered for a merit increase.
5. Requests for merit increases will only be considered at the time of an employee’s annual evaluation.
6. Department heads will submit evaluations with all supporting documentation to Human Resources for review for all evaluations that have a rating that exceeds “Meets Expectations,” with final approval given by the City Manager.
7. Unless otherwise advised, merit increases will be reflected in the first paycheck following the first complete pay period after the effective date.

4.12 MAINTENANCE OF CLASSIFICATION AND PAY PLANS

The Human Resources Department, assisted by the Department Heads, shall have primary responsibility for maintaining the classification and pay plans. All changes in job duties of a position and job classification of a position must be approved by the City Manager.

Department Heads and supervisors have a duty to report substantial changes in the duties and responsibilities of positions under their control, so that classification adjustments may be made.

The City Manager shall recommend to the City Council changes in the pay plan necessary to keep the City policy current, uniform and equitable. Recommended changes in pay policy shall be effective when the budget containing said changes is approved by City Council.

4.13 PROMOTIONS

It is the policy of the City to encourage and provide opportunities for promotion. Each employee is responsible for monitoring vacancies and is encouraged to apply for vacant positions in which he/she is interested in and for which he/she is qualified. A promotion is defined as the assumption of job duties and responsibilities that are higher in character and scope than the previous job. A promotion occurs when the new job is of a higher salary range than the prior job and is accompanied by a job title change.

When a non-exempt employee is promoted to an exempt employment status, the employee shall have the compensatory time balance cashed out prior to the effective date of the promotion. Payment shall be made at the employee's rate of pay on the effective date of the cash out.

General guidelines relating to advancement or promotion are as follows:

1. If an employee is promoted, the resulting salary increase shall be at least an amount sufficient to reach the minimum salary range for the new job. If the current rate of pay is more than the maximum rate of pay for the new classification then the pay shall remain the same.
2. Promotions are subject to a six-month probationary period. If the employee fails to meet the established performance standards, he/she may return to his/her previous position or a similar position, if a position is available.
3. Part-time employees promoting into a regular full-time position will use the new start date in their full-time position as their accrual date for benefits.

4.14 LATERAL TRANSFERS

A lateral transfer is movement from one position to another position within the same pay range. In the event an incumbent is transferred, whether voluntary or involuntary, to a position with the same pay range, the incumbent shall remain at the same salary. A lateral transfer will require a six-month probationary period.

4.15 DEMOTIONS

A demotion occurs when an employee moves from one job position to a position of a lower salary range and therefore, may result in a lower salary based on the minimum and maximum of the salary range for the position.

4.16 REORGANIZATIONS

An employee may be transferred, have a job title change or have a salary increased or decreased due to a department or City-wide reorganization.

4.17 REDUCTION-IN-FORCE

From time to time, economic conditions or the changing staffing needs of the City create situations which will require a reduction in force or layoff from specific positions.

SECTION 5 – EMPLOYEE BENEFITS AND SERVICES

The City of Tomball provides a benefits program for its full-time employees. The actual terms of coverage are as described in the individual summary plan documents, and the summary provided below is only to inform employees of the general benefits and procedures in a more concise manner. The terms of coverage are subject to periodic revision. All benefit guides and plan summaries can be obtained through the Human Resources Department.

5.01 ENROLLMENT AND PLAN YEAR

Full time employees are eligible for health and dental benefits and will be advised of group medical plans, dependent coverage availability, as well as current premium costs, during orientation. Employees and their eligible dependents will usually be covered on the 1st day of the next month following the start of employment. Group health plans operate on a fiscal year basis, beginning October 1 and ending September 30.

Open Enrollment for the upcoming plan year occurs in September of each year. Once elections have been made to participate or not participate in the group health plans, no change or revocation may be made in that election until the next open enrollment period, except in the case of a qualifying event, as defined by the Internal Revenue Code. Premiums for group and voluntary plans are deducted bi-weekly from the employee's paycheck.

5.02 GROUP HEALTH PLANS

A. GROUP MEDICAL AND DENTAL PLANS

Full time employees are eligible for health and dental benefits and will be advised of group health and dental insurance plans, dependent coverage availability and current premium costs during orientation. The City offers a choice of group health plans to full-time employees, and their eligible dependents. Employees and their eligible dependents will usually be covered on the first day of the next month following the start of employment with the City. An employee's spouse who is eligible for medical and/or dental insurance at his/her place of employment will not be eligible for medical and/or dental insurance provided by the City of Tomball. See Plan Documents for specific information concerning coverage.

B. GROUP VISION CARE PLAN

Employees may elect vision insurance for themselves and their eligible dependents. The cost of coverage for this optional product is deducted from the employee paycheck on a bi-weekly basis.

5.03 LIFE INSURANCE AND ACCIDENTAL DEATH & DISMEMBERMENT

A. GROUP LIFE AND AD&D

Full time employees will be provided Term Life Insurance and Accidental Death and Dismemberment Insurance (AD&D) with a minimum value of 1 x base salary.

B. OPTIONAL LIFE AND AD&D

Employees may elect additional life insurance with or without an accident and dismemberment provision for themselves and their spouse and children. All costs for additional coverage are the responsibility of the employee. The cost of coverage for these optional products is deducted from the employee paycheck on a bi-weekly basis.

5.04 SHORT AND LONG TERM DISABILITY

A. SHORT-TERM DISABILITY

The City of Tomball provides all full-time employees with the option to purchase short-term disability income benefits on a voluntary basis.

In the event an employee becomes disabled from a non-work-related injury or sickness, the employee would be eligible to receive 60% of their weekly income, to a maximum benefit as defined by the plan. The benefit period would begin on the 16th day, following the date of the injury or sickness, not to exceed 11 weeks. Pre-existing conditions could impact eligibility for the program.

B. LONG-TERM DISABILITY

The City of Tomball provides all full-time employees with Long-Term Disability Insurance.

If an employee becomes disabled as defined by the terms of the policy, they would be eligible to receive a monthly benefit of 60% of their basic monthly income, to a maximum benefit as defined by the plan. There is a 90-calendar day elimination period, meaning benefits would begin on the 91st day for a disability related to an accident or an illness. The plan provides for a coordination of benefits, and disability payments are reduced in coordination with other benefits such as workers' compensation, or other similar compensation.

5.05 FLEXIBLE SPENDING ACCOUNT

Eligible employees have the option of participating in a Flexible Spending Plan that allows the employee to contribute pre-tax salary to an account. Money allocated in this account can be used to reimburse the employee for medical, dental and prescription co-payments, uncovered medical or dental charges and dependent care coverage. Employees make an annual determination on the amount to be allocated to this account. Once the employee makes a decision to participate, the decision cannot be revoked unless the employee has a qualifying event or during annual enrollment. Unused funds revert to the City annually.

5.06 EMPLOYEE ASSISTANCE PROGRAM

The Employee Assistance Program (EAP) is designed to provide full-time employees and their dependents with professional, cost-effective assistance in resolving difficult personal problems. An individual's voluntary involvement in the EAP is confidential.

5.07 TEXAS MUNICIPAL RETIREMENT SYSTEM (TMRS)

A. RETIREMENT SYSTEM

The City of Tomball participates in the Texas Municipal Retirement System (TMRS).

B. ELIGIBILITY AND VESTING

Upon hire, all full-time employees become a member of TMRS. Participation on TMRS is mandatory if the employee's position normally requires them to work at least 1,000 hours per year. The vesting period is five (5) years.

C. CONTRIBUTIONS

Seven percent (7%) of an employee's gross salary is automatically deducted from their paycheck. The employee contribution is tax deferred. The City matches employee contributions at 2:1.

D. SEPARATION FROM EMPLOYMENT

If at separation, an employee is not vested in TMRS, the employee may either choose to:

1. Leave the money in the retirement system for up to five years, or
2. Withdraw the employee's contributions plus any accrued interest in a lump

sum, less appropriate taxes, or;

3. Roll the employee's contributions plus any accrued interest into a qualified retirement plan.

If at separation, an employee is vested in TMRS, the employee may either choose to:

1. Leave the employee's contributions plus interest in TMRS and receive a pension when qualified; or
2. Withdraw the employee's contributions plus interest in a lump sum, less appropriate taxes; or
3. Roll the employee's contributions plus interest into a qualified retirement plan.

E. RETIREMENT OPTIONS

An employee is eligible for retirement from TMRS if one of the following qualifications is met:

1. Five (5) years of service and at least 60 years old; or
2. Twenty (20) years of service, as defined by TMRS

F. DEATH BENEFIT

1. Should an employee die while still in the City's employment, TMRS provides a death benefit to the employee's beneficiary approximately equal to the employee's current annual salary.
2. Retirees are provided a death benefit in an amount set by TMRS.

G. DISABILITY

If an employee can no longer perform his or her job at the City as a result of an illness or injury, TMRS may provide an occupational disability retirement, regardless of whether the age or service requirements have been met. An Occupational Disability is based on the employee's deposits and interest, the city's matching funds, and other credits.

H. UNPAID LEAVE STATUS

If an employee is on unpaid leave status and has exhausted all accrued leave benefits, the employee will not be able to contribute to TMRS. If this occurs, TMRS requires an employee to request an extension of his/her Supplemental Death Benefit and have it approved by the TMRS Medical Board.

5.08 RETIREMENT AND BENEFITS

Employees hired on October 1, 2014 and thereafter:

- A. A retiree and his or her covered dependent(s) may be eligible for continued health insurance coverage through COBRA according to regulatory requirements. Retirees may not add dependents after retiring. Retirees are responsible for all costs, including premiums and administrative fees, associated with COBRA benefits. Retiree/Dependent COBRA benefits will be terminated if the City (or the City's Third-Party Administrator) does not receive the required contributions by the due date.
- B. Retirees may elect to seek health insurance through the state-based insurance exchanges after their creation by 2014 as currently mandated by the Patient Protection and Affordable Care Act ("APA" or "Act").

Employees hired prior to October 1, 2014:

A. RETIREE HEALTH BENEFITS

In order to recognize and reward long-term employees, as well as to provide an incentive for remaining in the City's employment, the City may pay a portion of the premium for continuation of the medical and dental coverage of certain retirees. Enrollment for retiree coverage must be completed no later than 30 days after the date of retirement. Later enrollment is not permitted. Any retiree eligible for medical coverage with another group plan shall not qualify for medical coverage with the City of Tomball.

Any employee hired on or after October 1, 2014, will no longer have any portion of their retiree health benefits paid for by the City. The eligibility requirements and premiums listed below only apply to full-time employees hired prior to October 1, 2014.

B. ELIGIBILITY

In order to be eligible for this benefit, the retiree must meet the following criteria:

1. Retiree must be vested, age 55 or older and a current recipient of retirement benefits from the Texas Municipal system.
2. Retiree must have been a full-time employee of the City of Tomball for 10 consecutive years immediately prior to retirement.
3. Retiree must satisfy the applicable plan requirements for the extension of retiree coverage under the medical and dental insurance benefit plan offered by the City at the time of retirement.

C. PREMIUMS

Beginning with retirement and ending when the person is eligible for Medicare coverage, the City may pay a portion of the retiree medical and dental coverage premiums in accordance with the following schedule.

1. The City may pay 40% of the premium costs for retirees having at least 10 years, but less than 15 years, of full time service with the City.
2. The City may pay 55% of the premium costs for retirees having at least 15 years, but less than 20 years, of full time service with the City.
3. The City may pay 70% of the premium costs for retirees having at least 20 years, but less than 25 years, of full time service with the City.
4. The City may pay 85% of the premium costs for retirees having at least 25 years of full time service with the City.

Eligible retirees shall pay 100% of vision premiums and 100% of the premiums for basic life insurance, which is currently \$2,000.

D. RETIREE DEPENDENT COVERAGE

Presently, a retiree's spouse and dependent(s) are also eligible for continued coverage if they are already covered at the time of retirement. Retirees may not add dependents after retiring. Each retiree is responsible for all costs, including premiums, associated with spouse and dependent benefits. The benefit includes the same medical coverage approved by Council and selected for current employees and excludes accidental death and life coverage.

E. MEDICARE AGE

The City of Tomball will no longer pay any retiree premiums once the retiree is eligible for Medicare coverage. Retirees who are eligible for Medicare coverage may, at their sole expense, continue to purchase coverage for themselves and their eligible dependents as provided under the applicable terms of City's policies. The City's policy will be a secondary policy to Medicare.

F. ANNUAL CERTIFICATION

Retirees, including covered spouse and dependents, shall certify their eligibility for continued health insurance benefits on an annual basis. The City will provide a Certification form to all retirees enrolled in the City's health plan, which must be returned by the chosen deadline. Failure to provide the Eligibility Certification form by the deadline will result in discontinuation of coverage.

5.09 SOCIAL SECURITY AND MEDICARE

The City of Tomball does participate in the Social Security and Medicare system.

5.10 WORKERS COMPENSATION

The City provides workers compensation coverage to all employees for job related injuries or occupational illnesses suffered by the employee while acting in the course and scope of their position. If an employee sustains a job-related injury, the injury is to be reported immediately to the employee's supervisor or department head by the injured employee and any employee that provides assistance to the injured employee. A first Report of Injury Form is also to be immediately completed. To the extent provided by State law, worker's compensation insurance will cover medical expenses for treatment of such job-related injuries. In order for the medical expenses to be paid, the employee must follow the appropriate guidelines issued by our worker's compensation carrier.

Remember: Employees should never pay for treatment or prescriptions associated with the injury. Employees should never use their personal insurance card for a work-related injury.

Administrative leave will be provided for the first seven days for a worker injured in the course and scope of employment. Once the employee misses seven calendar days, the injured employee becomes eligible for temporary income benefits as required by the Texas Workers' Compensation Act. Temporary Income Benefits are approximately 70% of an employee's average wage during the previous 13 weeks. If the absence is due to a serious health condition, the workers' compensation leave will run concurrently with Family and Medical Leave. After seven calendar days of missed work the employee may be eligible for wage continuation payments. More information is available in the Human Resources Department.

If an employee is absent due to an on-the-job injury or illness, the injured or ill employee will continue to accrue sick and vacation leave benefits for the first three months of the injury or illness. Accruals will cease after three months and until the employee returns to work.

5.11 OPTIONAL 457 PLANS

A. DEFERRED COMPENSATION PROGRAM

Deferred Compensation (Internal Revenue Code 457, Section (b)(2)) is a voluntary benefit available to public sector employees only and is not available to employees in the private sector. All full-time employees of the City are eligible to participate in the Deferred Compensation System.

This program allows public sector employees to defer a portion of their income and the taxes on that income to build a bigger fund for supplemental retirement income. The plan administrator sets the minimum that you may contribute to a Deferred Compensation plan and the maximum contribution is set annually by the Internal Revenue Service.

B. ROTH IRA

The IRS regulations have been updated to allow public employers to offer ROTH IRA's to employees through payroll deduction. Deductions into a ROTH IRA are deducted from the employees pay check after-tax and are subject to all IRS regulations.

C. DISCONTINUATION AND WITHDRAWALS

Employees participating in a deferred compensation program may begin and/or discontinue contributions to the program at any time. Money contributed toward Deferred Compensation can only be withdrawn following separation of employment with City of Tomball, or in the case of an emergency. The Internal Revenue Code 457 defines circumstances that qualify for an emergency.

5.12 CONSOLIDATED OMNIBUS BUDGET RECONCILIATION ACT OF 1985 (COBRA)

The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) became effective on April 7, 1986. Through COBRA, the City of Tomball employees and their dependents, who are currently enrolled in qualified group benefits, are afforded an opportunity to extend those benefits at 102% of the established monthly premium (subject to change from time to time) in situations by which the benefits coverage would otherwise end. The length of COBRA varies depending on the nature of the qualifying event, but could range between 18 and 36 months.

5.13 TUITION REIMBURSEMENT PROGRAM

The Tuition Reimbursement Program is provided for eligible full-time employees to supplement the cost of obtaining degrees that will help them in their current job or in future jobs with the City. The Human Resources Department will administer the program and review all reimbursement applications.

A. ELIGIBILITY

This program shall apply to all regular, full-time employees in good standing, who have completed two (2) years of employment with the City, are eligible to apply for tuition reimbursement for courses begun after the two-year anniversary. This policy shall apply to degree related programs only from an accredited (see HR for the list of acceptable accreditations) college, university, or technical school and will cover associate degrees,

undergraduate bachelor's degrees and master's degrees. Employees will be limited to one degree per level (i.e. bachelors, masters). The courses and/or degree programs must relate to the employees' current positions, or to career paths with the City that they may be reasonably following in the near future.

B. SCHEDULING

Employees are responsible for scheduling classes that will not conflict with their work schedule. The Department Director has the option of altering the employee's work schedule if special circumstances are warranted. Employees shall not be permitted to attend courses under this educational reimbursement program during work hours unless authorized by the City Manager. Employees attending courses under this educational reimbursement program shall not be compensated for their course work as hours worked.

C. REIMBURSEMENT AMOUNT

The City shall reimburse the employee the cost of the tuition, lab fees, books and other mandatory fees for courses directly related to their degree plan. Reimbursements shall not include miscellaneous expenses such as late fees, travel expenses, out of district fees, parking fees, finance fees, health center fees, athletic fees and deposits, etc. Employees must earn a grade of "C" or better in undergraduate classes and a "B" or better in graduate classes to receive this benefit. It is not the policy of the City to reimburse the cost of tuition and fees for any individual who is receiving or is eligible to receive assistance from such other sources as scholarships, grants and other subsidy programs (e.g. G.I. Bill).

The availability of tuition reimbursement is subject to City Council approved funding levels. The total amount of annual tuition reimbursement (not to exceed \$4,000 in a calendar year) will be established annually, as part of the budget process based upon anticipated participation and available funding. The training needs of the department as a whole will be considered before individual requests for tuition reimbursement are added to the budget.

D. SERVICE REQUIREMENTS/REPAYMENT OBLIGATIONS

Requirements for continued service with the City after course completion are an assurance that the City will benefit from employee participation in the program. If an employee leaves City employment for any reason before a service requirement is completed, the employee must repay to the City all or part of the tuition that was paid to the employee.

A two (2) year service requirement begins on the reimbursement check date. A separate two-year service requirement must be completed for each reimbursement payment made to the employee. If the service requirement is not completed, the debt will be paid in one of the following ways:

1. If the employee has worked less than one year of the service requirement, the employee will repay to the City the full amount of the reimbursement payment made to the employee.
2. If the employee has worked at least one year, but less than two years, of

the service requirement, the employee will repay to the City 50% of the amount of the reimbursement payment, made to the employee. A service requirement is **not** an assurance of continued employment by the City.

If a termination of employment occurs (voluntary or involuntary) and the employee owes a repayment amount, and the employee does not otherwise repay the amount, the employee agrees to have the repayment amount deducted from the employee's paychecks that are issued after the termination decision occurs.

E. APPLICATION

To begin participation in the Tuition Reimbursement Program, employees must notify their Department Head in writing by submitting a completed application for the program with proper signatures along with a degree plan from the school and tuition dollar estimates in time for the budget preparation workshops for the next fiscal year, **no later than March 30th**. All paperwork must then be forwarded to the HR department. This must be done each year for all classes to be taken in the next fiscal year.

To be considered for reimbursement, the course must be on the approved degree plan. Upon completion of a class, the employee must fill out a PA-7 listing course(s) taken on the comment line, attach a copy of the tuition receipt and a grade report, obtain the necessary signatures and forward the documents to Human Resources within 45 days of the completion of class. After reviewing the documents they will be forwarded to Accounts Payable for processing. All checks will be available for pick up in the Finance Department. The employee must sign a tuition repayment agreement before the check is released. Requests for reimbursement received more than 45 days after the last day of class, and those without an application on file will not be honored.

REMINDER: It is the employee's responsibility to complete all steps of the process within the specified deadlines. This includes Department Head approval and the time constraints placed on the Initial Application and on the deadline for submissions of an official grade report. The Human Resources Department will not be responsible for notifying the employee of deadline dates. Any required documentation or forms not submitted within the stipulated time frame may not be reimbursed.

SECTION 6 – DISCIPLINE/GRIEVANCES/APPEALS

6.01 DISCIPLINE

It is the intent of the City of Tomball to compensate its employees fairly; to make all reasonable provisions for their safety and health; to provide adequate instruction, direction and equipment; and to treat all employees with dignity and respect. All employees are expected to work diligently and conscientiously for the benefit of the City as directed by their supervisors and maintain a high level of conduct on and off the job.

A. DISCIPLINARY GUIDELINES

The City of Tomball encourages the use and application of progressive discipline whenever practical. Accordingly, mild disciplinary action may be taken when an employee first has problems with attendance, work performance, or conduct that is disruptive or inappropriate in nature. If the employee fails to correct the problem, or develops other problems, more severe disciplinary action shall be taken. Using progressive discipline in such a manner maximizes an employee's opportunity to correct problems.

Utilizing progressive discipline, however, does not preclude or inhibit the City from exercising its right to impose severe discipline, including the immediate termination, of an employee, whenever such action is deemed appropriate. By providing for the possible use of progressive discipline, the City in no way has waived or altered the "At-Will" nature of employment with the City. While in most cases the disciplinary action taken will depend upon the degree of severity of the offense(s), the record of the offender, and the seriousness of the consequences of the offense(s), there are certain offenses, which will result in severe disciplinary action regardless of the disciplinary record of the offender.

The purpose of standard disciplinary procedures is to make it easier to be consistent by applying similar penalties for similar offenses. However, Directors, Managers, and immediate Supervisors have the discretion to take the totality of the circumstances into account when taking disciplinary action.

B. BASIS FOR DISCIPLINE

The specific descriptions following each general heading are examples of that type of conduct and are not intended to be all-inclusive. Offenses such as these listed below or violations of other City or department policies and/or procedures constitute grounds for disciplinary action, up to and including termination:

1. Unsatisfactory Attendance

- a. Unauthorized absences.

- b. Abuse of leave.
- c. Tardiness.

2. Unsatisfactory Performance

- a. Inability or unwillingness to satisfactorily perform assigned work.
- b. Failing to perform duties at an acceptable level.
- c. Failure to successfully complete a performance improvement plan.

3. Indifference Toward Work

- a. Inefficiency, negligence, loafing, carelessness, leaving work without permission, excessive use of City time for performing personal business during work hours, abuse of eating or rest periods, sleeping (other than designated times for Fire Shift Personnel) or otherwise being inattentive during work hours, interfering with the work of others, mistreatment of the public or other employees.
- b. Negligently causing damage to City property.
- c. Failure to meet or maintain specified conditions of employment, such as failure to obtain a degree or obtain/maintain a license or certificate required as a condition for performing a job.
- d. Misusing or failing to use delegated authority in performance of duties.

4. Dereliction of Duty

- a. Failure to observe and follow the policies of the employee's department/office or the City.
- b. Failure of an employee to take appropriate action when a violation of policies, rules, or regulations comes to his/her attention, regardless of the violator's assignment or position in the City.
- c. Failure to promptly report or deliver to a Supervisor any property found by, confiscated by, or relinquished to an employee of the City without undue delay.
- d. Failure to promptly report damage to City equipment or property of others.

5. Insubordination

- a. Failure or refusal by an employee to perform assigned work or to fully comply with

instructions or orders from a supervisor or other appropriate manager. This may include the use of abusive language, displaying of hostility, or indifference in response to supervision.

- b. The following procedures apply in the event that an employee questions an order given by a supervisor:

If an employee believes that the instruction or order is improper, the employee should obey the order or instruction and question the order later in a reasonable manner.

If an employee believes an instruction or order, if followed, would result in personal injury or damage to City equipment, they should notify the supervisor who issued the order, or if necessary, request approval by another supervisor.

If an employee believes an instruction or order is illegal, they should immediately notify a supervisor above the supervisor giving the instruction or order.

- c. Refusal to submit to corrective action or performance improvement as required by a supervisor.

6. Violation of Safety Rules

- a. Improper removal of safety guards (e.g. fire extinguishers); failure or improper use of safety equipment; failure to follow safety practice rules, which includes failure or refusal to participate in required post-accident drug and/or alcohol testing; failure to report an on-the-job injury, vehicle accident, or unsafe condition on the day of the occurrence; smoking in prohibited areas.
- b. Causing or contributing to an accident by operating City equipment in an unsafe or unauthorized manner.
- c. Failure to notify supervisor, prior to reporting to work, of taking prescribed or over-the-counter drugs with a warning label.

7. Dishonesty

- a. Misuse of City property or funds.
- b. Falsifying or altering City documents.
- c. Any falsifying action detrimental to the City; cheating; lying to any City official or member of City Management, including the employee's immediate supervisor.

- d. Falsely reporting illness or injury, or otherwise attempting to deceive any representative of the City as to a health or medical condition. Falsifying origin of personal injury to collect workers' compensation. Misuse of paid or unpaid leave of absence.

8. Disturbance

The City prohibits and will not tolerate employee conduct that is harassing, intimidating, threatening, or violent, including, but not limited to:

- a. Using confidential information in ways that may be detrimental to the City or to another employee.
- b. Entering City property for unauthorized reasons.
- c. Participation by an employee in a disturbance occurring on City property or while on duty.
- d. Harassment of or discourtesy to other City employees or citizens; creating dissension or discord between employees, or between employees and citizens.
- e. Use of abusive, profane, or threatening language; inappropriate or harassing comments, jokes, references, or mannerisms; threats of violence; physical challenges to fight.
- f. Horseplay; inappropriate or harassing physical contact; deliberately causing injury to fellow employees; attempted assault or assaulting of fellow employee(s); fighting on City property; possession of dangerous weapons, firearms, explosives without permission.

9. Misuse of City Equipment or Services

- a. Careless, negligent, or improper use of City property or equipment.
- b. Abuse, misuse, deliberate destruction, abandonment, or damaging of property, tools, facilities, or equipment belonging to other employees, citizens or the City.

10. Sabotage

- a. Deliberate damage or destruction of City equipment or property; advocacy of, or participation in, unlawful trespass or seizure of City property.
- b. Encouraging or engaging in illegal slowdowns, sit-ins, strikes or any other concerted effort to limit or restrict City employees from working.

- c. Falsifying, altering, or unauthorized destruction of City records.
- d. Willful waste of public supplies, service, or equipment.

11. Misconduct

- a. The violation of any federal or state law, rule, regulation, or City ordinance while on duty, or the violation of any federal or state law, rule, regulation, or City ordinance while off-duty, including a criminal act, that may have an adverse impact upon the City or on the public confidence in the integrity of City government, or on the relationship of the employee and other employees, or acts which reflect poorly upon the City's image.
- b. Theft of, aiding, or encouraging the theft of cash, City property, or equipment.
- c. Operating or conducting illegal activity on the job or on City property.
- d. Unauthorized charges against the City's account.

12. Taping

To assure the reasonable expectation of privacy in casual, business, or personal conversations, no employee, official or visitor may audio or videotape conversations of any employee, official, and/or visitor in City owned or occupied buildings and land, or through City owned or operated telephone equipment with the following exceptions:

- a. City Council meetings (regular, special, and emergency) and workshops.
- b. Public Hearings
- c. Official Police Department investigations or official "stops" by police officers on duty.
- d. Seminars. With the consents of the presenter.
- e. Equipment demonstrations, with the consent of the demonstrator.
- f. Employee counseling sessions and employee hiring and exit interviews with the knowledge and consent of all parties present.
- g. Unless prior permission is granted by the City Manager.

13. Disqualification from Operating City Vehicles or Equipment

C. TYPES OF DISCIPLINARY ACTIONS

All or a combination of the following progressive disciplinary measures may be taken by supervisors. Supervisors will evaluate each situation and take the appropriate level of discipline. Some infractions may warrant skipping steps in the process.

1. Counseling

The Supervisor should document and verbally advise the employee of their unsatisfactory performance or conduct and recommend areas for improvement.

Counseling shall be administered soon after the time the unsatisfactory performance or misconduct occurs and documented informally in the employee's departmental file.

2. Reprimand

Reprimands are written memos given to employees for unsatisfactory performance, for policy, procedural, or conduct violations, or in instances where counseling has already been given and the violation has subsequently been repeated or where unsatisfactory performance has continued.

When a written reprimand is given, it is to be administered in a timely manner. The employee concerned is to be informed directly of the conduct, the rule it violates, the action being taken, the terms and conditions of that action, the consequences of that action, and consequences of future violations.

Supervisors shall provide the employee with a copy of the reprimand. Originals of all reprimands shall be sent to the Human Resources Department for inclusion in the employee's Personnel File.

3. Suspension or Involuntary Demotion

A suspension without pay or an involuntary demotion may be administered in situations where reprimands have been imposed for previous infractions or lack of performance, or in situations that are serious enough to warrant this level of discipline without prior discipline. Suspension of exempt employees must be in compliance with the Fair Labor Standards Act (FLSA).

4. Termination

Termination may be the culmination of a progressive discipline or performance improvement process. Alternatively, termination may occur as the first disciplinary measure undertaken if the situation warrants it.

D. DISCIPLINARY PROCESS

Any Department Head who proposes to suspend an employee without pay, demote an employee, or terminate an employee is required before making a final decision, to give the

employee notice of the proposed disciplinary action and an opportunity to respond. The employee must appear at the time indicated to give a verbal response to the proposed disciplinary action, but he or she also may submit a written response. The employee may accept the action or explain why the disciplinary action should not be taken.

If the Department Head receives new information from the employee that may affect the disciplinary action, the Department Head should reconsider the proposed discipline in light of such new information, promptly conduct any investigation that is warranted, and then make a decision based on all of the information. After carefully considering the employee's response and any other new information, the Department Head may impose the disciplinary action as originally planned, modify such discipline, or forgo any discipline with the approval of the City Manager.

Department Heads must follow procedures outlined by the Human Resources Department in executing any documents of proposed or actual disciplinary actions.

E. PERSONAL IMPROVEMENT PLAN

Employees may be disciplined for conduct or performance or a combination of the two. At times performance is more predominantly the issue and for these instances a Personal Improvement Plan may be used in lieu of or in addition to other discipline.

The Personal Improvement Plan (PIP) is an important tool utilized to identify issues or concerns related to an employee's individual work performance, attendance and/or conduct. It is also meant to provide the employee with an opportunity to accept personal accountability of these challenges, so the employee and their supervisor can collaboratively work together in finding solutions for improvement.

At any time an employee's performance falls below expected levels, the employee may be placed on a PIP and given 90 days to improve. If at the end of the 90-day period, the employee does not satisfactorily complete the terms or conditions of the PIP, the employee may be subject to further disciplinary action, up to and including termination, in accordance with directions provided by this policy handbook.

F. EMPLOYEE REPRESENTATIVES

An employee does not have the right to have a representative present during any interview involved in an investigation of misconduct of the employee or another employee. An employee has the right to have a representative assist or represent the employee at any stage of the disciplinary proceeding that applies to that employee after the employee has been given notice of a proposed disciplinary action.

6.02 GRIEVANCES AND AGGRIEVED EMPLOYEES

A grievance is a claim by an employee that he/she has been unjustly disciplined or has been adversely affected by a personnel decision. A grievance is a formal complaint, with the purpose of giving the grievant an opportunity to present his or her position on the matter.

An employee having a grievance relating to employment shall first present the grievance to his or her Department Head in writing.

The grievance should be presented within (3) three working days of the date of the occurrence which led to the grievance, or within three working days from the date the employee first had knowledge of the occurrence.

6.03 APPEAL BY EMPLOYEE

An employee, who after discussing a grievance with the employee's Department Head and not being satisfied with the answer or want to appeal a disciplinary decision, may do so by providing detailed correspondence of the specific areas of concern and submitting the appeal along with any supporting evidence to HR within (3) business days from the date the discipline was given or the date of the decision made on the grievance.

At this time, HR will review the grievance or appeal and submit it to the Discipline Grievance Committee (DGC) panel (selected by the HR Director) which will be comprised of three objective and non-interested department heads. The DGC will make a recommendation to the City Manager as to agreement or disagreement of the grievance or discipline no later than (3) business days from the date of receipt by HR.

The City Manager will review all the documentation related to the grievance and render a final decision within (3) business days from receipt of the recommendation by the DGC. The decision(s) made by the City Manager at the conclusion of this grievance process is considered final and not eligible for further appeal.

If additional time is warranted at any time during this process, the employee will be notified by HR.

Grievances may not be filed by probationary or temporary employees.

6.04 WHAT IS NOT DISCIPLINE

Layoffs, reductions-in-force, expiration of temporary appointments, separations allowed by other sections of this handbook, pay reductions or other measures resulting from economy campaigns,

reorganizations or other similar policies are not considered discipline and cannot be appealed under the City's policies and procedures.

6.05 APPLICABILITY

This section is not applicable to persons holding the following positions: City Manager; City Attorney; Municipal Court Judges; Department Heads who serve at the pleasure of the City Manager subject to the Charter; part-time, seasonal and temporary employees who serve at will, provisional employees who serve at will, and all other positions for which the Charter or state law prescribes disciplinary or dismissal requirements different from those stated in this section.

SECTION 7 – ACCRUALS AND LEAVE

7.01 VACATION

A. USE OF ACCRUED VACATION LEAVE

In appreciation of continuous service, the City shall provide employees in full-time positions, except as provided by contract, an opportunity for paid vacation leave away from the work environment. The City encourages employees to use vacation leave annually.

Approval of vacation leave shall be based on departmental needs. An employee may not take vacation leave without written approval of the supervisor.

An employee's approved leave shall be charged and used in amounts of not less than one-fourth (quarter) of an hour increments.

B. ELIGIBILITY

All full-time employees shall accrue vacation leave according to the chart below and shall comply with the following vacation leave guidelines:

1. Vacation leave is earned from the most recent date of full-time employment and accrued on a bi-weekly basis following the pay period it is earned.
2. Employees are allowed to use vacation leave after they have completed their six (6) month probationary period. Employees who are on probation will accrue vacation during this six (6) month probationary period however, if the employee's employment is terminated prior to regular employee status, no vacation accrual will be credited.
3. Employees may not substitute vacation leave for disciplinary suspension without pay.
4. If an employee goes on unpaid leave status, vacation leave shall not continue to accrue until the employee returns to work.

C. VACATION ACCRUAL

Vacation is accrued on a bi-weekly basis. The schedule below reflects vacation leave earned per pay period and per year by all employees in full-time positions:

Length of Service	All Employees, excluding Shift Firefighters	Shift Firefighters
5 years of service or less	10 days per year or 3.08 hours per pay period	10 days per year or 4.62 hours per pay period
End of 5 th Year, but less than 12 years of service	15 days per year or 4.62 hours per pay period	15 days per year or 6.93 hours per pay period
End of 12 th Year, but less than 20 years of service	20 days per year or 6.15 hours per pay period	20 days per year or 9.23 hours per pay period
20 th Year and thereafter	20 days per year or 6.15 hours per pay period, plus one additional day for each year of service beginning year 20 (limited to five extra days)	20 days per year or 9.23 hours per pay period, plus 12 hours for each year of service beginning year 20 (limited to 60 extra hours)

D. SCHEDULING VACATION USAGE

The employee's supervisor must approve all vacation leave, giving due consideration to the needs of the department and the ability of the remaining staff to perform the work of the department or division, as well as the preference of the employee. Each employee is requested to give their supervisor the maximum notice possible (generally at least 10 business days in advance), prior to the requested leave dates (s) in accordance with department policy. If an employee, due to some unforeseen emergency, is requested to work during a scheduled vacation, the employee can re-schedule vacation at another time. An employee may not be granted vacation leave in excess of the actual amount accrued. An employee may not request unpaid leave if they have vacation accrued that they are eligible to use.

E. HOLIDAYS WITHIN VACATION PERIODS

If a holiday falls within a scheduled vacation period, the employee shall receive holiday pay, in lieu of vacation pay.

F. REIMBURSEMENT FOR UNUSED VACATION

An employee shall receive reimbursement of unused accrued vacation at the time of separation of employment or retirement if they meet the following requirements:

- Employee must have completed 6 months of employment (or 12 months if the probationary period was extended),
- The employee provides a 2-week notice, and
- The employee has not been terminated.

In the case of the death of the employee, the estate of a deceased employee is entitled to payment for accrued vacation leave acquired by that employee.

G. VACATION CARRY OVER

Accumulated vacation leave in an amount not to exceed one times the employee's annual accrual amount, may be carried forward from year to year, except as provided by contract. Any unused vacation leave accumulated in excess of this amount will be lost and may not thereafter be exercised by such employee.

7.02 SICK LEAVE

A. ACCRUAL OF SICK LEAVE

All full-time employees, other than shift firefighters, accrue 3.08 hours of sick leave per pay period or 10 days per year, to a maximum of 960 hours. Shift firefighters accrue 4.62 hours of sick leave per pay period or 10 days per year, to a maximum of 960 hours. Part-time and temporary employees are ineligible to earn or receive paid sick leave.

B. USE OF SICK LEAVE

An employee may use sick leave:

- For the employee's non work-related illness or injury that prevents the employee from working.
- For a sick dependent.
- To receive medical care from a physician, dentist, or other health care provider.
- Pregnancy and the birth of a child to an employee shall be deemed a bona fide illness for this purpose and no additional sick leave shall be authorized for maternity leave.

NOTE: Leave allowed by the Family Medical Leave Act (FMLA) may apply to the serious injury or illness of you or your family member. Please refer to The Family and Medical Leave Act in Section 7.10 or contact Human Resources.

Using sick leave for purposes other than authorized by this policy is just cause for disciplinary action up to and including termination of employment. The use of sick leave time is not counted as time worked under the FLSA.

C. WORK-RELATED INJURY

Loss of work due to an accident or injury received while at work is not charged against sick time.

D. ACCRUED TIME

Sick leave time begins the first working day of the illness. An employee who has used up their accumulated sick leave must then use their compensatory time, vacation leave, or any other applicable accrued leave benefit, if available. After the employee has exhausted all accumulated time, additional time off is without pay, if approved by the City Manager. Please refer to the Leave of Absence Policy in Section 7.11 for more information.

E. NOTICE REQUIREMENTS

If an employee finds it necessary to be absent due to illness or injury, the employee or employee's representative must notify the immediate supervisor or Department Director on the first day, and each subsequent day thereafter, of the employee's absence before the beginning of the employees scheduled shift or as prescribed by the department. Messages left with non-supervisory personnel will not be accepted. In this regard, the employee must understand and abide by their department's notice requirements.

When the employee returns to work after an absence of three or more days, he or she shall be required to provide a doctor's certification that confirms that the employee's absence constituted an appropriate use of sick leave. Department Directors who have reason to believe that sick leave has been abused may request such certification when an employee has been absent for less than three days.

F. ABUSE OF SICK LEAVE

The frequent claiming of sick leave benefits may under certain circumstances, constitute grounds to believe that an employee's physical condition is below that required to perform the essential functions of his or her job. Evidence of malingering or abuse of this benefit will be considered grounds for disciplinary action, up to and including termination.

G. REIMBURSEMENT FOR UNUSED SICK LEAVE

Employees shall receive reimbursement of unused, accrued sick leave at the time of separation or retirement up to the maximum hours specified in the chart below if:

- Employee must have completed five consecutive years of service, and
- Employee provides 2-week notice, and
- Has not been terminated.

Employees hired prior to October 1, 2014

Length of Service	Sick Hours Reimbursed
5 years	20 days*
6 years	25 days
7 years	30 days
8 years	40 days
9 years	50 days
10 or more years	60 days

Employees hired on October 1, 2014 and thereafter:

Length of Service	Sick Hours Reimbursed
10 years	20 days
11 years	25 days
12 years	30 days
13 years	40 days
14 years	50 days
15 or more years	60 days

** Each day is equal to 8 hours.*

In the case of the death of any employee, the estate of a deceased employee is entitled to payment for accrued sick leave acquired by that employee up to the maximum hours specified. Any employee, who terminates employment with the City of Tomball and is compensated for accumulated sick leave at the time of separation pursuant to this subsection, shall not be eligible for re-employment by the City for a period of one year following separation, except upon the written approval of the Department Director and the City Manager.

If a former employee is re-employed by the City of Tomball, the original hire date will not be used to restore sick leave accrual rates. Please refer to Section 2.04 for more information.

7.03 SICK LEAVE INCENTIVE PROGRAM

As an incentive to encourage the responsible use of sick leave, the city will pay an employee four 8-hour sick leave days (32 hours) earned in any one calendar year if the employee meets the following requirements:

- The employees must have at least 10 days (80 hours) or 120 hours for shift firefighters accumulated sick leave remaining after the 32-hour deduction.
- The employees must not have taken more than two sick days (as determined by the normal working schedule) during the preceding calendar year.

Those employees eligible to be paid for the four days will be notified by Payroll with instructions for authorizing payment. Payment in lieu of sick leave will be made the second pay period in January of each year.

7.04 SICK LEAVE DONATIONS

An employee may experience a catastrophic illness, injury or other medical condition that prevents the employee from working for a period of time and may cause the employee to use up his/her bank of sick, vacation and compensatory time. Before going onto unpaid leave, the employee may request leave donations from other City employees by filling out a “Request for Leave Donation” form.

The City Manager will then decide if it qualifies as a catastrophic illness and if so, approve the request for donations. Other City employees may donate up to 40 hours of their paid vacation or sick time. The City Manager will approve the donated time for the affected employee in 80 hours increments, not to exceed 320 hours.

Donations will be used on a first in, first out basis. The use of donated time will cease upon the employee’s return to full time work and any unused donations will be returned to the donating employees. All donations will be handled through Human Resources only and will be kept confidential.

7.05 PERSONAL LEAVE

Personal leave will be provided as follows at the beginning of the calendar year and can be taken in quarter hour increments:

- **18 hours for all full-time personnel**
- **24 hours for full-time fire personnel**

Leave is subject to the attendance and leave approval provisions of this policy and may not be taken during the probationary period. Personal leave does not accrue beyond the calendar year and unused hours will not be paid at the end of the year.

7.06 HOLIDAY LEAVE

A. CITY HOLIDAYS

The City provides full-time employees with paid holiday leave each year. Part-time and temporary/seasonal employees are ineligible for holiday compensation. Every calendar year the City of Tomball recognizes 11 holidays, although certain employees may be required to report for duty:

- New Year's Day
- Good Friday
- Memorial Day
- Independence Day
- Labor Day
- Veteran's Day (*Effective November 2025*)
- Thanksgiving Day
- Day after Thanksgiving
- Christmas Eve
- Christmas Day
- One Floating Holiday - Given on January 1 of each year and cannot be taken until the probationary period is completed. Must be scheduled and taken during the calendar year and shall not be subject to carry-over or payment if not used.
If a holiday falls on a Saturday, the preceding Friday will be observed as a holiday, and if the holiday falls on a Sunday, the following Monday is observed as a holiday.
If a full-time, regular employee is currently at work and/or on an approved leave of absence with pay the day before and the day after a holiday, the employee will receive pay for the holiday.

The floating holiday will be provided as follows and can only be taken in full-day increments:

- 8 hours for 8-hour shift employees
- 9 hours for 9-hour shift employees

- **10 hours for 10-hour shift employees**
- **12 hours for 12-hour shift employees and full-time fire personnel**

B. SHIFT FIREFIGHTERS

This section applies to all non-exempt full-time shift Firefighters. The City of Tomball shall maintain compliance with all provisions of the Fair Labor Standards Act as applied to the allocation and use of holidays in the Fire Department.

All full-time shift Firefighters will be paid for 12 hours at the employee's regular rate of pay for every City holiday, whether or not the Firefighter works on the holiday. All full-time shift Firefighters who work a shift that begins on a City holiday will be paid a rate of one and one-half times their regular hourly rate.

The City has designated the floating holiday as the September 11th Memorial holiday for firefighters only if the firefighter chooses to use the floating holiday for that purpose on this day, and its use does not unduly disrupt the department's operation. For all other employees, the floating holiday is unchanged.

While firefighters have the same number of holidays as all other City employees, in accordance with H.B. 2113, the Texas legislature has amended Section 142.0013 (c) of the Local Government Code mandating that one of the City's holidays be designated as September 11th Memorial Holiday for all firefighters. All City employees have the same number of holidays on the same days; however, this amendment mandates that the City refers to one of those holidays by a different name for a particular category of employees.

C. POLICE PERSONNEL

All full-time police personnel who work a shift that begins on a City holiday will be paid a rate of one and one-half times their regular hourly rate for that day of work.

7.07 FUNERAL LEAVE

Employees may be granted up to (3) days of paid leave per year to attend or arrange the funeral and settle the affairs of an immediate family member. For the purpose of this policy, "immediate family" shall mean the employee's spouse, children, father, mother, brother, sister, father-in-law, mother-in-law, brother-in-law, sister-in-law, grandchildren and grandparents of the employee or employee's spouse.

Funeral leave will be provided as follows:

- **24 hours for 8-hour shift employees**
- **27 hours for 9-hour shift employees**
- **30 hours for 10-hour shift employees**
- **36 hours for 12-hour shift employees and full-time fire personnel**

The City Manager may allow administrative time off to attend the funeral of an employee, an employee's spouse or child, a former employee or well-known community leader, but only to the extent that it does not affect the safe and effective operation of city services.

7.08 EMERGENCY LEAVE

All regular and probationary employees may be granted emergency leave for the period not to exceed three consecutive workdays days per calendar year.

Emergency leave is defined as leave for unforeseen, urgent or critical response situations that require immediate attention and cannot be delayed. This leave is typically used for situations such as severe illness or injury of a close family member, death in the family, natural disasters, or other significant personal emergencies.

Approval of emergency leave will be determined by the Department Head and cannot exceed more than the number of hours noted below for personnel:

- **24 hours for 8-hour shift employees**
- **27 hours for 9-hour shift employees**
- **30 hours for 10-hour shift employees**
- **36 hours for 12-hour shift employees and full-time fire personnel**

When/if approved by the Department Head, the employee and/or the supervisor must make a note of use of this leave in the employee's time sheet for payroll purposes.

7.09 CITIZENSHIP LEAVE

All full-time employees shall be granted leave with pay when it is necessary to be absent in order to fulfill citizenship obligations, in accordance with State Law, Texas Labor Code Sec. 52.051, Fair Labor Standards Act (FLSA), and Jury System Improvement Act of 1978. Part-time, temporary, and seasonal employees shall be granted leave without pay in order to fulfill citizenship obligations.

Employees are required to give advance notice of an absence for citizenship obligations. Employees that must be absent from work to fulfill citizenship obligations are required to notify their supervisor at least (3) days prior to the leave or at the earliest opportunity. The employee must provide a copy of the court order or jury summons.

A. JURY DUTY

The City shall grant jury duty leave for an employee summoned to serve on any grand, petit, or municipal court jury. The City shall not dismiss an employee from employment because of the nature or length of the employee's jury service. When an employee is on jury leave, he or

she shall continue to receive his or her regular rate of pay in addition to any per diem received by the employee from the state or the court for jury service. Pay shall not exceed the number of hours in the employee's regular workweek. The time spent on jury duty that coincides with the employee's regular work time is counted as straight time for overtime calculation purposes.

If an employee is chosen as a juror, they must notify their supervisor immediately and fulfill their citizenship obligation. If the employee is not selected as a juror, the employee is required to report back to work upon being released from service. If more than 50% of the employee's shift remains at the time the employee is released from service, the employee is expected to report back to work during that shift. If less than 50% of the employee's shift is left at the time the employee is released from service, the employee is expected to report to work on their next scheduled shift.

A shift employee may be given time off with pay from duty, if in the judgment of their supervisor, the period of time spent on jury duty or as a witness on behalf of the City may impact job safety. (i.e. shift police officers that work night shift may require time off).

All employees must provide proof of attendance from the presiding court to their supervisor upon their return to work. Proof of attendance must be forwarded to Human Resources.

B. COURT APPEARANCES

Employees who are subpoenaed to appear in court or before any other judicial or administrative body in the furtherance of official city business or as a "Good Samaritan" will be compensated in accordance with this policy.

Employees that request time off to appear in court in a matter personal to the individual (divorce, liability suit, etc.) either as a defendant, plaintiff, or witness shall be required to use accrued leave in accordance with the appropriate policy.

All employees must provide proof of required attendance and participation from the presiding court to their supervisor upon their return to work. Proof of attendance must be forwarded to Human Resources.

C. VOTING

On the day of an election, an employee who does not have at least two consecutive hours outside the employee's work hours to vote, shall, upon the employee's request, be given time off to vote during the employee's work hours.

7.10 FAMILY AND MEDICAL LEAVE ACT (FMLA)

A. FAMILY AND MEDICAL LEAVE ACT OF 1993

The City provides leave to eligible employees in accordance with the Family and Medical Leave Act (FMLA). Federal law allows the City to require qualified employees to use FMLA when absent from work for a qualified reason. Under the FMLA, eligible employees may take up to 12 weeks of job-protected leave each year for specified family and medical reasons or 26 weeks of leave to care for an injured or ill service member. FMLA is unpaid leave which runs concurrently with other types of leave that are paid, such as sick leave, vacation leave, and worker's compensation. FMLA leave is typically unpaid unless the absence also qualifies for paid leave under another City policy.

B. ELIGIBILITY REQUIREMENTS

To be eligible for FMLA leave, an employee must:

- Have worked for the City for at least 12 months (need not necessarily be consecutive 12 months);
- Have worked for the City at least 1,250 hours during the 12 months before the start of the leave; and
- Work within 75 miles of a City worksite employing 50 or more employees.

C. QUALIFYING REASONS FOR LEAVE

1. **Twelve Weeks of Leave.** An eligible employee as defined above may take up to 12 weeks of FMLA leave in a single 12-month period (the city uses a rolling 12-month period measured backwards) for one or more of the following reasons:
 - a. When the employee is unable to perform the functions of his/her job because of his/her own serious health condition;
 - b. For the birth or placement of a child for adoption or foster care. FMLA leave for birth or placement for adoption or foster care must conclude within 12 months following the birth or placement. In addition, if an employee and the employee's spouse are both employed by the City, both are jointly entitled to a combined total of 12 work weeks of family leave for the birth or placement of a child for adoption or foster care;
 - c. To care for a spouse, child, or parent (but not a parent-in-law) with a serious health condition, the employee need not be the only individual available to care for the qualified family member; or

- d. A qualifying exigency arising out of the fact that the employee's spouse, child, or parent is a covered military member on active duty (or has been notified of an impending call or order to active duty) in support of a contingency operation.
2. **Twenty-Six Weeks of Leave.** Eligible employees may take up to 26 weeks of FMLA leave in a single 12-month period to care for a covered service member (i.e., the employee's spouse, child, parent, or next of kin) with a serious injury or illness incurred in the line of duty while on active duty in the Armed Forces. The employee need not be the only individual available to care for the covered service member. If an employee and the employee's spouse are both employed by the City, both are jointly entitled to a combined total of 26 work weeks of leave during a single 12-month period.
3. **Maximum Amount of Leave.** The maximum amount of FMLA leave available, even if there are multiple FMLA qualifying events, is 12 weeks during a 12-month period or 26 weeks in a single 12-month period to care for an injured or ill service member.

D. DEFINITIONS

1. Son or daughter means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in the position of a parent.
2. Parent means biological parent or an individual who stands or stood in loco parentis to an employee when the employee was a child.
3. Covered service member means a member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, in outpatient status, or is on the temporary disability retired list, for a serious injury or illness.
4. **12-Month Period for Covered Service Members** - The 12-month leave period for calculating leave to care for a covered service member with a serious injury or illness is the 12-month period measured forward from the date an employee's first FMLA leave to care for the covered service member begins. During this 12-month period, the maximum FMLA leave an employee may take for any qualifying reason is limited to a combined total of 26 weeks.
5. **12-Month Period for All Other FMLA Leave** - To determine eligibility for all other leave, the City uses a rolling 12-month period measured backward from the date of any FMLA leave.
6. **Health Care Provider (HCP)** – Means a Doctor of Medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices; or any other person determined by the Secretary of Labor to be capable of providing health care services.

7. **Next of Kin of a Covered Service Member** – Means the nearest blood relative other than the covered service member's spouse, parent, or child.
8. **Incapacity** – Means the inability to work, attend school or perform other regular daily activities.
9. **Serious Health Condition** - For purposes of this policy, a "serious health condition" means an illness, injury, impairment, or physical or mental condition that involves:
 - a. **Inpatient care** – an overnight stay in a hospital, hospice, or residential medical care facility, including any period of incapacity or any subsequent treatment in connection with such inpatient care; or
 - b. **Continuing treatment by a health care provider (HCP)** - includes one or more of the following:
 - **Incapacity and Treatment** - a period of incapacity of more than three consecutive, full calendar days, and any subsequent treatment or period of incapacity relating to the same condition that also involves treatment: (i) two or more times (within 30 days of the first day of incapacity, unless extenuating circumstances exist), by a HCP or under direct supervision of, under orders of, or on referral by, a HCP, or (ii) by a HCP on at least one occasion which results in a regimen of continuing treatment under supervision of the HCP. The first (or only) in-person treatment visit must take place within 7 days of the first day of incapacity.
 - **Pregnancy and Prenatal Care** - any period of incapacity due to pregnancy, or for prenatal care;
 - **Chronic Conditions** - any period of incapacity or treatment for such incapacity due to a chronic serious health condition which (i) requires periodic visits (at least twice a year) for treatment by, or under the direct supervision of a HCP, or (ii) continues over an extended period of time (including recurring episodes of a single underlying condition); and (iii) may cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.);
 - **Permanent or Long-Term Conditions** - a period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective (e.g., Alzheimer's, a severe stroke, or the terminal stages of a disease);
 - **Conditions Requiring Multiple Treatments** - any period of absence to receive multiple treatments (including any period of recovery there from) by, or under the supervision of, under orders of, or on referral by, a HCP either for restorative surgery after an accident or other injury, or for a

condition that would likely result in a period of incapacity of more than three consecutive, full calendar days in the absence of medical intervention or treatment (e.g., chemo or radiation for cancer, physical therapy for severe arthritis, or dialysis for kidney disease).

Unless complications arise, the common cold, the flu, earaches, upset stomach, minor ulcers, headaches (other than migraines), routine dental or orthodontia problems, and periodontal disease are not serious health conditions. In addition, routine physicals, eye examinations, and dental examinations are not considered treatment.

10. **Qualifying Exigency** – this term includes issues arising from short-term deployments of seven or less calendar days prior to the date of the deployment; military events and related activities such as official ceremonies and programs sponsored by the military and to attend family support or assistance programs and informational briefings; childcare and school activities; financial and legal arrangements; counseling; rest and recuperations; post-deployment activities; and additional activities arising out of the covered military member's active duty or call to active duty status if the employee and the City agree that such leave qualifies as an exigency, and agree to both the timing and duration of the leave.

E. EMPLOYEE NOTIFICATION REQUIREMENTS

Employees must give the City sufficient information so that it can make a determination as to whether the employee's absence is FMLA-qualifying. If an employee fails to explain the reasons, FMLA leave may be denied. Employees must also indicate on their time records when an absence or tardy is or may be covered by FMLA. Any absence or illness that results in more than three days' absence must be reported to the City's Human Resources Department. City of Tomball reserves the right to retroactively designate leave as FMLA if the leave qualifies under the FMLA regulations.

1. **Foreseeable and Unforeseeable Leave.** Employees must provide their Director and the Human Resources Department with at least 30 days' advance notice when the need for FMLA leave is foreseeable. If the need for FMLA leave is not foreseeable, employees must provide their Director and the Human Resources Department with as much advance notice as practicable, in accordance with their Department's normal call-in procedures. The employee must also provide an explanation as to why he/she was unable to provide at least 30 days' advance notice of the need for leave.
2. **Content of Notice.** Employees must provide the City with documentation, stating the reasons for the needed leave sufficient to allow the City to determine if the absence is FMLA-qualifying, and the anticipated timing and duration of the leave, if known. If the employee has previously taken FMLA leave for the same reason, he/she must specifically reference the qualifying reason for leave or the need for FMLA leave. The City may seek additional information from the employee, and the employee is obligated to respond to the City's questions so the City can determine if an absence is potentially FMLA-qualifying. The employee must notify the City as soon as practicable if the dates of

his/her scheduled leave change or are extended, or where such dates are initially unknown.

3. **Compliance with City's Call-In Procedures.** Employees must comply with their Department's normal call-in procedures for reporting absences, tardies, and requesting leave, e.g., contacting a specific supervisor by a certain time. Notice may be given by the employee's spokesperson only if the employee is physically unable to do so personally. Where an employee does not comply with the City's and Department's normal call-in procedures and no unusual circumstances justify the failure to comply, FMLA-protected leave may be delayed or denied.
4. **Consequences for Failing to Provide Required Notice.** If the employee fails to timely explain the reasons for his/her need for leave, FMLA leave may be denied or delayed for up to 30 days. The employee may also be subject to disciplinary action in accordance with City policy. Likewise, if an employee fails to respond to the City's reasonable inquiries regarding a leave request, the employee may not be granted FMLA leave protection.
5. **Scheduling Planned Medical Treatment.** When an employee intends to take leave for planned medical treatment for him/herself or for his/her spouse, child or parent, the employee is ordinarily expected to consult with his/her supervisor and try to schedule the treatment so as not to disrupt unduly the City's operations, subject to the approval of the treating health care provider. This should be completed prior to the scheduling of treatment in order to coordinate a treatment schedule which best suits the needs of both the employee and the City.
6. **Periodic Check-In While on FMLA.** Employees should check in periodically with their supervisor and with the Human Resources Department regarding their status and intent to return to work. If the employee discovers that the amount of leave originally anticipated is no longer necessary, the employee must provide the City with reasonable notice (i.e., within two business days) of the changed circumstances if foreseeable.

F. CITY RESPONSIBILITIES

1. **Human Resources Department:** The Human Resources Department is responsible for the verification, approval and notification of FMLA leave. The Human Resources Department may place an employee on FMLA leave if it determines that a qualifying event has occurred.
 - a. **Eligibility Notice.** The Human Resources Department will notify an employee of his/her eligibility to take FMLA within five business days (absent extenuating circumstances) of its receipt of the employee's request for FMLA leave (or from when the City otherwise determines that an employee's absence may be FMLA-qualifying). Employee eligibility is determined (and notice will be provided) at the commencement of the first instance of leave for each FMLA-qualifying reason in the applicable 12-month period. Notification may be oral or in writing.

If an employee's eligibility status changes, the Human Resources Department will notify the employee within five business days, absent extenuating circumstances.

- b. **Rights & Responsibilities Notice.** The Human Resources Department will provide employees with a notice detailing the City's specific expectations, the employee's obligations, and consequences to the employee of not meeting his/her obligations. The Human Resources Department will provide this notice each time it provides the Eligibility Notice described above. The required certification form will accompany this notice. If any of the specific information in the Rights & Responsibilities Notice changes, the Human Resources Department will notify the employee within five business days of its receipt of the employee's first notice of need for leave subsequent to any change.
 - c. **Designation Notice.** When the Human Resources Department has enough information to determine if an absence is FMLA-qualifying (e.g., after receiving the employee's fully completed Certification), the Human Resources Department will notify the employee in as to whether the leave will or will not be designated as FMLA. This Designation Notice will be given to the employee within five business days, absent extenuating circumstances. If the information in the Designation Notice changes, the Human Resources Department will notify the employee within five business days of the City's receipt of the employee's first notice of need for leave subsequent to any change.
 - d. **Certification Forms & Other Required Documentation.** The Human Resources Department is responsible for determining the completeness and authenticity of certification forms, fitness-for-duty/return to work certifications, and for review and coordination of all other FMLA documentation required by this policy.
2. **Supervisors & Directors:** So that the Human Resources Department can meet the notice deadlines required by the FMLA, supervisors must immediately notify both their Director and the Human Resources Department if they have reason to believe an employee's absence is due to an FMLA-covered reason. Supervisors must make this report even if the employee is using paid time off to cover the absence, e.g., sick leave, comp time, vacation, holiday. Supervisors and Directors must report to Human Resources any time an employee misses work for more than three days because of his/her own illness or injury or that of a spouse, child or parent. When an employee submits a leave/absence form indicating an FMLA absence, the form must be sent to the Human Resources Department immediately.

G. MEDICAL CERTIFICATIONS AND OTHER REQUIRED DOCUMENTATION

In all instances in which the City requests a certification from an employee, it is the employee's responsibility to provide the Human Resources Department with a complete and sufficient certification; failure to do so may result in the denial or delay of FMLA leave.

1. **Certification.** An employee must provide the Human Resources Department with a complete and sufficient medical certification supporting the need for FMLA leave due to a serious health condition affecting the employee, his/her spouse, child or parent, or due to the serious injury or illness of a covered service member. The required medical certification forms are available from the Human Resources Department. The certification must set forth the beginning and expected ending dates of the leave. In the case of intermittent leave, the certification must also provide the dates and duration of the treatments necessitating the intermittent leave. The employee is responsible for any expenses associated with providing the City with a required certification. The employee must turn in the required certification to the Human Resources Department within 15 days after it is requested, unless not practicable under the circumstances.
2. **Second & Third Opinions.** In some cases, the City may require a second or third medical opinion (at the City's expense). The City will not require second or third opinions in the case of leave to care for a covered service member.
3. **Recertification.** Employees may be asked to periodically recertify the need for FMLA. The City will not, however, require recertification in the case of leave to care for a covered service member. The recertification must be provided within 15 days or as soon as practicable under the particular facts and circumstances. The employee is responsible for any expenses associated with providing the City with any required recertification.
 - a. **30-day rule.** The City will request recertification no more than every 30 days and only in connection with an absence by the employee unless paragraphs b or c below applies.
 - b. **More than 30 days.** If the certification indicates that the minimum duration of the condition is more than 30 days, the City will wait until that minimum duration expires before requiring a recertification, unless paragraph c below applies. If the minimum duration of a serious health condition extends beyond six months, the City may nevertheless request a recertification every six months in connection with an employee's absence.
 - c. **Less than 30 days.** The City may request recertification in less than 30 days if the employee requests an extension of leave, circumstances described by the previous certification have changed significantly (e.g., the duration or frequency of the absence, the nature or severity of the illness, complications, a pattern of unscheduled absences), or the City receives information that casts doubt upon the employee's stated reason for the absence or the continuing validity of the certification.

- d. **Annual Medical Certifications.** If a serious health condition lasts beyond a single leave year, the City may require the employee to provide a new medical certification in each subsequent leave year.
4. **Return to Work Certification.** Employees must submit a work release from their healthcare provider before they can return to work if FMLA leave is a result of the employee's own serious health condition. An employee who fails to timely provide the City with this certification will not be allowed to return to work. Any expense associated with the required work release will be the employee's responsibility.

While the City will not require a fitness-for-duty certification to return to duty for each absence taken on intermittent or reduced leave schedule, it may require such a certification up to once every 30 days if reasonable safety concerns (i.e., a reasonable belief of significant risk of harm to the employee or others) exist as to the employee's ability to perform his/her duties, based on the serious health condition for which the employee took leave.

5. **Failure to Provide Certifications & Deficient Certifications.** If an employee fails to provide a required certification within 15 days after the City requests it, the City may deny leave until the certification is provided. If the employee never produces the certification or recertification, the employee is not eligible for FMLA protections. If the certification is incomplete or insufficient, the Human Resources Department will notify the employee, in writing, and advise the employee what additional information is required. The City will provide the employee with seven additional days to cure any deficiency. If the deficiencies are not cured with the seven-day deadline, the City may deny the taking of FMLA leave. The Human Resources Department (or other authorized person) may contact the health care provider for purposes of clarification and authentication after giving the employee the opportunity to cure any deficiencies.
6. **Documenting Family Relationships.** If an employee elects to take FMLA leave in order to care for a qualifying family member or to care for a covered service member, the employee may be required to provide reasonable documentation confirming the family relationship.

H. CERTIFICATIONS FOR QUALIFIED EXIGENCY LEAVE

1. **Active-Duty Orders.** The first time an employee requests leave because of a qualifying exigency arising out of the active duty or called to active duty status of a covered military member, the employee must provide a copy of the covered military member's active duty orders or other documentation issued by the military which indicates that the covered military member is on active duty or call to active duty status in support of a contingency operation, and the dates of the active duty service.
2. **Certification Form.** The employee must complete and submit to the Human Resources Department the appropriate certification form in support of his/her need for leave. This form must be turned in within 15 days after the City requests it.

3. **Verification.** If the qualifying exigency involves meeting with a third party, the Human Resources Department (or other authorized person) may contact the individual or entity with whom the employee is meeting for purposes of verifying a meeting or appointment, and the nature of the meeting. The City may also contact an appropriate unit of the Department of Defense to request verification of active duty or call to active duty status.
4. **Denial or Delay of Leave.** Exigency leave may be delayed or denied if the employee fails to turn in the required certification within 15 days. If the certification is incomplete or insufficient, the Human Resources Department will notify the employee, in writing, and advise the employee what additional information is required. The City will provide the employee with seven additional days to cure any deficiency. If deficiencies are not cured with the seven-day deadline, the City may deny the taking of FMLA leave.

I. INTERMITTENT & REDUCED LEAVE SCHEDULE

An eligible employee may take FMLA leave on an intermittent or reduced schedule basis, because of a qualifying exigency, only if medically necessary, for planned medical treatment, or as otherwise approved by the Director.

1. **Notice.** The employee must inform the City of the reasons why the intermittent or reduced leave schedule is necessary and of the schedule for treatment, if necessary.
2. **Scheduling Planned Medical Treatment.** When an employee intends to take leave for planned medical treatment for him/herself or for his/her spouse, child or parent, the employee is ordinarily expected to consult with his/her supervisor and try to schedule the treatment so as not to disrupt unduly the City's operations, subject to the approval of the treating health care provider. This should be done prior to the scheduling of treatment in order to work out a treatment schedule which best suits the needs of the both the employee and the City.
3. **Temporary Transfer.** The City may temporarily transfer the employee to an alternative position (with equivalent pay and benefits, but not necessarily equivalent duties) in order to better accommodate an employee's intermittent or reduced leave schedule.
4. **Minimum Increments.** Intermittent leave will be counted in increments of 15 minutes to hourly for payroll purposes.

5. **Exempt Employees.** Exempt employees using unpaid intermittent or reduced schedule FMLA leave may be docked for absences of less than a day without jeopardizing their exempt status under the Fair Labor Standards Act (FLSA).

J. EMPLOYEE BENEFITS

1. **Group Health Insurance.** During any period of FMLA leave, the City will continue to pay its portion, if any, of any group health insurance coverage for the employee on the same terms as if the employee had continued to work. Where applicable, the employee must timely pay his or her share of health insurance premiums while on FMLA leave. The City will advise the employee of the terms and conditions for making such payments. Failure to pay premiums in a timely manner will result in cancellation of group health coverage.
2. **Continued Service.** The period of FMLA leave, whether paid or unpaid, shall be treated as continued service for the employee's vesting and eligibility for retirement and longevity.
3. **Other Benefits.** The employee's use of FMLA leave will not result in the loss of any employment benefit that accrued prior to the start of the employee's leave, and seniority will not be affected. However, benefit accruals, such as vacation and sick leave, will be suspended during any unpaid leave.
4. **Holidays.** When an employee takes a full work week of FMLA leave and a holiday occurs within the week, the week is counted as a full week of FMLA leave. If, however, an employee uses FMLA in increments of less than a week, the intervening holiday does not count against the employee's FMLA entitlement unless the employee was otherwise scheduled and expected to work on the holiday. Employees must be on an approved leave of absence with pay the full day before and the day after a holiday to receive pay for the holiday; therefore, employees on unpaid FMLA leave are not normally paid for holidays.

K. JOB RESTORATION AFTER FMLA LEAVE

1. **Re-employment Rights.** Upon return from FMLA leave, an employee will normally be restored to his/her original job or to an equivalent job with equivalent pay, benefits, and other terms and conditions. An employee, however, has no greater right to reinstatement than if he/she had been continuously employed during the period of FMLA leave. Further, the City may delay restoration to employees who fail to timely provide a fitness-for-duty certification to return to work.
2. **Key Employees.** Under certain circumstances the City is not required to reinstate "key" employees. Certain highly compensated key employees may be denied reinstatement when necessary to prevent "substantial and grievous economic injury" to the City's operations. A "key" employee is a salaried eligible employee

who is among the highest paid 10 percent of employees within 75 miles of the worksite. An employee will be notified of his/her status as a key employee, when applicable, after requesting FMLA leave.

L. OTHER EMPLOYMENT DURING FMLA PROHIBITED

Under no circumstances may an employee on FMLA leave, sick leave, disability leave, or workers' compensation leave engage in outside employment unless expressly authorized in writing in advance by the Director.

M. FRAUD

An employee who fraudulently obtains FMLA leave is not protected by the FMLA's job restoration or maintenance of health benefits provisions. Further, an employee who commits fraud may be terminated from City employment.

N. FMLA STATUTE AND REGULATIONS

This policy is intended to explain benefits available to eligible employees under the FMLA. It is not intended to create any rights to leave beyond those created by the FMLA.

O. MANDATORY REPORTING OF IMPROPER HANDLING OF FMLA

Employees must immediately report, in writing, to their Director or the Human Resources Department, the following so that the City can investigate and respond appropriately:

- Any interference with, restraint or denial of the employee's right to take FMLA or any rights protected by the FMLA or this policy.
- Any discrimination or perceived acts of discrimination against the employee for any right protected by the FMLA or this policy.
- Any refusal by a supervisor to authorize FMLA leave or attempt to discourage an employee from taking FMLA leave.
- Any attempt to avoid the City's FMLA responsibilities.
- Discrimination or retaliation against an employee for exercising or attempting to exercise FMLA rights.
- Discrimination or retaliation against an employee for opposing or complaining about any unlawful practice under the Act or this policy.

7.11 LEAVE OF ABSENCE

A. LEAVE OF ABSENCE

Employees may be granted a leave of absence at the discretion of their Director, with the approval of the City Manager, provided the employee's absence will not unduly disrupt the operations of the department and City, or place an undue burden on fellow employees. A request for leave must be in writing and state the nature and duration of the leave. A leave of absence may be granted on an incremental basis. The maximum length of a leave of absence shall be 3 months.

B. ACCRUED TIME

If accrued leave is available, an employee must exhaust all applicable accrued leave balances while on a leave of absence. Once eligible accrued leave balances have been exhausted, any time spent on an approved leave of absence will be time without pay.

C. REPORTING REQUIREMENTS

An employee on a leave of absence shall be required to report their status to the immediate supervisor the first business day of each week.

D. EMPLOYEE BENEFITS

An employee shall be required to continue to pay the current premium contributions for any elected group health benefits. Once all accrued leave is exhausted and the employee begins leave without pay, the employee shall pay all health insurance and/or other premiums.

During any leave of absence without pay, an employee shall accrue no vacation or sick time, and no credited service toward retirement or longevity. An employee returning to work after leave without pay which extends for more than three months shall be evaluated based on the actual time they were at work.

E. REINSTATEMENT

If the need to fill the position should arise due to unforeseen circumstances, or if the job is eliminated due to a reduction in force, the City of Tomball cannot guarantee the reinstatement of an employee on an extended leave at the end of the leave period.

7.12 MILITARY LEAVE

This policy establishes the rules and procedures that apply to employees enlisted in the United States military reserves or the Texas National Guard that are required to take military leave.

A. MILITARY TRAINING LEAVE

The City provides military training leave to employees who are required to satisfy military obligations under the Uniformed Services Employment and Reemployment Rights Act (USERRA) or other applicable law.

B. MILITARY ACTIVE DUTY

1. The City provides leave to employees who are called to military active duty to satisfy military obligations under USERRA or other applicable law.
2. While not required by federal law, the City does provide supplemental pay to employees called to military active duty when the employee's military wage or salary is less than their City wage or salary. For more information on supplemental pay, please see Item C. Pay and Benefits.

C. PAY AND BENEFITS WHILE ON MILITARY TRAINING LEAVE OR MILITARY ACTIVE DUTY

1. Employees who are absent from work for military training leave or when called to military active duty are entitled to military pay for up to 120 hours, or 168 hours for shift firefighters, per calendar year, in accordance with Section 431.005 of the Texas Government Code. Requests for military pay may only be made for the calendar year in which leave is to be granted.
2. If the employee is called to extended active duty the City of Tomball will pay the difference between the military pay and the employee's normal salary for a period not to exceed six months.
3. After the six-month period, the employee's accrued balances of vacation, compensatory time and holiday time may be used to supplement the military pay up to the employee's normal salary amount. At the point that all accrued leave has been exhausted, the employee will be placed on unpaid leave. The employee's job will be available upon return as specified by Federal and State law.
4. Other benefits, i.e. Vacation and sick leave, shall continue to accrue while the employee is on military leave.
5. Military pay hours are considered time not worked and cannot be used to accrue overtime. Employees shall only be paid for hours missed as a result of military training leave or when called to military active duty.
6. There is no accrual of military pay hours. Unused military pay hours shall

not be paid out at the employee's separation from employment. Unused hours will not be carried over to the next calendar year.

7. Holiday pay shall be granted (paid) during the expenditure of the 120 hours, or 168 hours for shift firefighters, of military pay. Holiday pay shall be paid at straight time.
8. The entitlements outlined in this policy apply only to those employees who are activated from a military reserve or Texas National Guard unit. Those employees who enlist in the US military shall not be eligible for supplemental pay or the City's participation in paying a portion of the dependent premium.

D. PROCEDURES

1. The following procedures apply to both Military Training Leave and Military Active Duty.
 - a. Employees must provide notice, including a copy of military orders documenting the requirement to take military leave, to their immediate supervisor.
 - b. The supervisor is responsible for notifying the Manager and/or Director. The Director shall provide a copy of the military orders to the Human Resources Department.
 - c. Employees are responsible for checking with the Human Resources Department to determine their responsibilities while on military training leave or when called to military active duty.
2. The following procedures apply only to Military Active Duty.
 - a. **Supplemental Pay.** Employees must provide the Human Resources Department with a copy of their military pay record prior to receiving supplemental pay.
 - b. **Health Insurance.** From the date military active leave begins, the employee may elect to continue dependent health insurance coverage as allowed by federal law, which is continuously up to 18 months, and state law, which is up to an additional 6 months following the exhaustion of the federal limit. For the first 18 months of the employee's leave, the employee shall pay the premium-contribution rate for the elected dependent coverage. Thereafter, employees may maintain the same dependent coverage by paying the full cost of the insurance premium. Employees are eligible to be reinstated on the insurance plans at the employee's premium-contribution rate on the day they return to the City as a full-time employee, and must complete the required forms to reinstate coverage.

- c. **TMRS Retirement Benefits.** Employees who take military active leave may apply to the Texas Municipal Retirement System (TMRS) for service credits for the time they were on leave if the employee:
- Returns to work within 90 days of the end of leave;
 - Receives an honorable discharge;
 - Completes an application and forms required by TMRS;
 - Within 5 years of the end of the leave, deposits the money that would have been deducted from the employee's salary had the employee not been on leave, according to rules established by TMRS.
- d. **Deferred Compensation.** Employee deferred compensation plans (457 plans) shall be maintained while on leave. If reemployed, the employee may resume contributions or contact the deferred compensation plan provider to make any changes.
- e. **Return from Military Active Duty.** Employees returning from active duty must provide written copies of their separation or deactivation orders to the City as follows:
- Less than 31 days of leave - within 72 hours of their release from service.
 - More than 30 but less than 181 days of leave - within 14 days of their release from service.
 - More than 180 days of leave - within 90 days of their release from service.
- f. **Reemployment.** The City, in accordance with USERRA, shall reemploy employees that:
- Served for a period of 5 years or less (unless their service fits into one of the excused categories defined in USERRA);
 - Are discharged under honorable conditions; and
 - Reapply in a timely manner.

7.13 ADMINISTRATIVE LEAVE

Under justifiable circumstances a Director may, with the approval of the City Manager, place an employee on administrative leave with or without pay. Such circumstances may be, but are not limited to, completion of pending criminal or administrative investigations.

7.14 INCLEMENT WEATHER

The City is responsible for providing Police, Fire, water, sewer, and other services to the citizens of the City with or without inclement weather conditions. Given these responsibilities, it is the City's policy to be open for business under all types of weather conditions.

All employees shall be required to work on their normally scheduled work days regardless of inclement weather conditions unless instructed otherwise by their Supervisor. Supervisors are responsible for ensuring that their operations are adequately staffed during periods of inclement weather. Employees who miss work or expect to be late for work due to inclement weather conditions must personally notify their Supervisor immediately. Failure to properly notify their Supervisor may result in disciplinary action, up to and including termination.

Employees who miss work due to inclement weather may use accrued vacation or compensatory time to compensate for the lost time. Employees with no vacation or compensatory time accrued shall not be reimbursed for the lost time.

If the City closes due to inclement weather, employees that have pre-approved leave will be required to use their leave.

SECTION 8 - SEPARATION FROM EMPLOYMENT

Although we hope your employment with the City of Tomball will be a mutually rewarding experience, we understand that varying circumstances do cause employees to voluntarily resign employment. Should this time come you are asked to follow the guidelines below regarding notice and exit procedures.

8.01 RESIGNATIONS

A. NOTICE OF RESIGNATION

Employees may leave City service in good standing by submitting a written resignation to their supervisor ten (10) business days in advance of their final day of employment. The written resignation shall include the effective date of the resignation, the reason for resigning, and signature of the employee. An employee's resignation is effective when their Supervisor accepts the resignation. The notice of resignation will be placed in the employee's Personnel File. Employees who resign in this manner and whose documented performance and employment record meets or exceeds standards will be eligible for reemployment.

Under certain circumstances, if the Director and the Director of Human Resources feels that is in the best interest of the City, the ten day notice requirement may be waived.

B. ORAL RESIGNATIONS

In instances where only an oral resignation is tendered, the Director shall promptly communicate the facts in writing to the Human Resources Department for inclusion in the employee's Personnel File. Oral resignations shall be considered as failure to properly notify and employees are not eligible for rehire.

C. JOB ABANDONMENT

An employee voluntarily and irrevocably resigns City employment if the employee:

1. Fails to return from an approved leave of absence on the date specified by the employee or the date agreed upon by the City and employee, without prior notice or sufficient cause.
2. Fails to report to work without notice to the City for 3 consecutive workdays or shifts without sufficient cause.

Employees who abandon their jobs will not be eligible for rehire.

D. WITHDRAWAL OF RESIGNATION

An employee wishing to request the withdrawal of an accepted resignation shall submit a written statement to the Director outlining the basis for the request prior to the effective date. Once a resignation is tendered by the employee and accepted as provided in this section, it may not be withdrawn unless the Director agrees.

E. RESIGNATION IN LIEU OF PENDING DISCIPLINARY ACTION TERMINATION

A resignation because of pending or possible disciplinary action will be considered as separation for misconduct. Employees who resign in lieu of pending disciplinary action will not be eligible for rehire.

8.02 RETIREMENTS

Full-time employees are afforded retirement under the Texas Municipal Retirement System. Eligible employees may retire from City service in accordance with applicable programs. Retirement with the City of Tomball is a voluntary separation and employment is terminated on the last day worked. For more information on Retirement, please refer to Section 5.07 or contact the Human Resources Department.

8.03 REDUCTION IN FORCE (LAYOFFS)

From time to time economic conditions or the changing staffing needs of the City create situations which require a reduction in force or layoff from specific positions. A reduction in force is a non-disciplinary decrease in the number of authorized positions.

8.04 ABSENCE WITHOUT LEAVE

If an employee is absent from work, without proper authorization, whether for part or all of a working day or for a longer period, such absence shall be grounds for disciplinary action or termination.

8.05 TERMINATIONS

Employees separated through termination are not eligible for rehire except as otherwise required by federal or state law.

All non-elected officers and employees of the City shall be appointed or hired for an indefinite term and either the City or employee can terminate the employment and compensation at will, at any time with or without cause.

Non-elected officers of the City and Department Directors shall be removed by the City Manager in accordance with the City Charter. Other employees of the City shall be removed by their respective Department Head with the consent of the City Manager. No verbal or written reason for dismissal is required to be given to the employee.

8.06 INCAPACITY

An employee may be separated from employment for incapacity due to medical reasons arising from illness, injury, or other medical conditions when the employee, with or without reasonable accommodation, is unable to perform the essential functions of the job; or continued employment creates a direct threat to the health and safety of the employee or others. It is the supervisor's responsibility to know an employee's ability to perform essential job functions.

Should an employee's ability to physically or mentally perform his or her duties be questioned, the Department Head should notify the Human Resources Department. The employee may accept the may require the employee to submit to a medical evaluation performed by a physician approved by the City or a fitness for duty determination.

A finding of incapacity shall be made through an individual job-related medical examination by the physician. Separation for incapacity will not be considered disciplinary action.

8.07 DEATH

If a City employee dies, their estate will receives all pay due as well as any earned and payable benefits as of the date of the employee's death.

8.08 EXIT INTERVIEWS

Each person departing from City employment is required to meet with the Human Resources Department for an exit interview. Departments must notify the Human Resources Department regarding employee separations. The Human Resources Department will schedule an exit interview to conduct out-processing of the employee.

8.09 RETURN OF CITY PROPERTY/EQUIPMENT

Supervisors are responsible for obtaining all departments-issued City property, such as keys, tools, manuals, inclement weather gear, protective gear, uniforms, cell phones, etc. that may be in the employees' possession or custody and returning the items to the appropriate departments.

Employees who fail to return City property may be delayed in payment of final pay until all City property is returned. If these items are damaged or missing, their value will be deducted from the separating employee's final paycheck as outlined in the Employee Authorization for Payroll Deduction form.

8.10 SEPARATION PAY

The separation date for all employees is the last day of actual work. Final pay received by an employee will not be construed to extend employment with the City of Tomball beyond the separation date. Any accrued compensatory hours will be cashed out to the employee on the final paycheck from the City. Full-time employees leaving in good standing, who have completed their probationary period, may be eligible for vacation and sick leave as outlined in Section 7. Authorized deductions, which include Federal Insurance Contribution Act (FICA), social security, insurance premiums, Texas Municipal Retirement System (TMRS), etc., will also be withheld from the departing employee's final check. The final check will be deposited into the employees account on the next pay date. Final pay check stubs will be mailed to the address designated at the time of separation.

SECTION 9 – PRIVACY AND RECORDS MANAGEMENT

9.01 EMPLOYEE PRIVACY

The City will retain its duties and privileges as an employer consistent with good business practices. This includes collection, retention, use, disclosure and confidentiality of employee information.

9.02 PRIVACY RULE POLICY AND PROCEDURES

A. Purpose and Scope

The Health Insurance Portability and Accountability Act (HIPAA) Standards for Privacy of Identifiable Health Information (the Privacy Rule) is effective April 14, 2004. The Privacy Rule provides the first comprehensive Federal protection for the privacy of health information. In accordance with the Privacy Rule, the City of Tomball will implement reasonably minimum necessary policies and procedures that limit how much protected health information is used, disclosed, and requested for certain purposes. The City is required by applicable federal and state law to maintain the privacy of protected health information. The HIPAA Privacy Rule permits disclosure of health information for workers' compensation purposes as governed by the State of Texas Labor Code and the Texas Workers' Compensation Commission associated rules. In addition, the HIPAA Privacy Rule permits the employer to collect health information as needed for employment. The HIPAA Privacy Rule does not affect medical information the employer collects and uses to carry out obligations under the Family Medical Leave Act, the Americans with Disabilities Act as Amended (ADAAA), and similar laws.

B. Protected Health Information Definition

Protected Health Information (PHI) is any individually identifiable health information that is written, oral, or electronic, including demographic information collected from an individual. PHI also relates to past, present, or future physical or mental health or condition of an individual; or the past, present, or future payment for the provision of health care to an individual; and:

1. That identifies the individual; or
2. There is a reasonable basis to believe the information can be used to identify the individual.

C. Designation of Privacy Officer

1. The Privacy Officer for the Health Plan is the Director of Human Resources.

2. The Privacy Officer is responsible for:
 - a. The development and implementation of the privacy policies and procedures,
 - b. Tracking the use and disclosure of PHI,
 - c. Selecting and ensuring implementation of an initial training program and then subsequent "new hire" training,
 - d. Overseeing HIPAA Privacy compliance,
 - e. Monitoring legal and regulatory changes and suggesting new policies as needed.
3. The Privacy Officer may delegate responsibilities to other Human Resources staff As required.

D. Notice of Privacy Practices

All employees will receive a Privacy Notice from the City of Tomball and/or health insurance vendor. The City will limit whom within the organization has access to PHI based on who needs access to perform their job duties. PHI will only be used or disclosed as authorized or required by law.

The City may release PHI to business associates with whom the City has written agreements containing terms to protect the privacy of PHI. A business associate is a person or entity who performs or assists the City with an activity involving the use or disclosure of medical information that is protected under the Privacy Rules.

The City will use or disclose employee PHI to a public or private entity authorized by law to assist in disaster relief efforts or as authorized by law deemed to be in the public interest or benefit according to the Privacy Rule.

Designated City staff that have access to PHI will be required to practice the following safeguards for individuals' health information.

- Speaking quietly when discussing PHI.
- Under no circumstances discuss individual health information outside an assigned work area;
- Isolating and locking file cabinets and file rooms; and
- Providing additional safety measures by securing personal information in the work area. Protected information will be placed in files or properly put away and

not left in an open area. Staff will protect information displayed on computer terminals in open areas and information on fax machines with multiple users.

Any identifiable health information such as pre-employment physicals, drug screens, and health and welfare benefit information will not be made a part of an employee's Personnel File. A benefits file will be maintained for all full-time employees and will not be combined with the Personnel File after termination of employment. The benefits file will not be released under the Public Information Act unless required by law. The City will not be responsible for any incidental use or disclosure of information if designated staff with access to PHI make every reasonable effort to avoid being overheard and reasonably limit information shared.

Certain City personnel will be approved to have access to PHI to carry out their job duties. These staff members will be allowed to receive only the listed type of PHI needed to properly perform their job responsibilities.

1. Human Resources Staff

The Director of Human Resources will be allowed information related to employment physicals and drug screens and other HR personnel as authorized by the Director. Specific information regarding employment physicals or drug screens will not be disclosed to the supervisor or any other staff member. This information will be filed separately from the employee's Personnel File. It is the responsibility of the employee or prospective employee to discuss specifics with the physician. Only HR personnel authorized by the Director will have access to PHI, and confidential files. Personnel and confidential files are retained indefinitely and will be housed in the Human Resources Department in a secure locked area, or at a secure area off site. These files contain PHI and it is the responsibility of the Privacy Officer to monitor access.

The Privacy Officer or designee will be responsible for retrieving requested information and all PHI files. Under no circumstances will Human Resources staff allow access to confidential files without the consent of the Privacy Officer.

Copies from the PHI and/or benefit files will only be distributed by the Human Resources Department through the oversight of the Privacy Officer.

2. Personal Health Information

HR personnel, as designated by the HR Director, will be allowed access to information related to employee benefits, disability assessments, and voluntary information provided by a City employee or retiree to provide customer service. Under no circumstances will HR personnel solicit PHI when assisting customers. All information voluntarily provided by an individual will be absolutely safeguarded. Human Resources may only use PHI in connection with providing customer service purposes and as authorized and required by law.

HR personnel, as designated by the Director, will disclose PHI to a personal representative or family member of an employee or retiree if the personal representative or family member they

have properly designated and documented in writing through written authorization. It is the responsibility of the employee or retiree to revoke the authorization in writing should the designated person no longer need access to personal information.

The Director of Human Resources will enter into and monitor Business Associates Agreements between the City of Tomball and any health insurance vendors to assure privacy of protected information.

3. Americans with Disabilities Coordinator

Per the Americans with Disabilities Act Amendments Act of 2008 (ADAAA), the Director of Human Resources, or designee, will be designated as the ADAAA coordinator and will have access to medical information necessary to assist an employee with ADAAA issues to determine reasonable accommodations for their current position or placement in another position within the City. All disability assessment information will be kept in the individual's PHI file unless the disability is the result of an on-the-job illness or injury. Workers' Compensation assessments will be retained by Risk Management. Employees that assist the ADAAA Coordinator are prohibited from discussing PHI with any employee outside of the designated staff that needs the information to perform their required job duties.

4. Supervisory Staff

Supervisory staff will make every effort to limit the amount of employee's PHI to information absolutely necessary to perform required job duties. Physician's notes for sick leave absences may be retained by the Supervisor where the files will be kept in a secure locked area. Information in connection with FMLA will be retained in Human Resources where the files will be kept in a secure locked area. Supervisors are prohibited to disclose information to anyone who does not have a valid business need for the information. Supervisory staff will make no reference to individual health information through written correspondence or electronic mail. FMLA request forms and medical disability information not related to Worker's Compensation will be sent to the authorized HR personnel only. Copies of FMLA forms will not be attached to or be sent to the City's payroll department.

5. City of Tomball Employees

All employees are entitled to have personal and medical information private. Under no circumstances will a City employee disclose PHI regarding another City employee through the electronic mail system or written correspondence, unless the affected employee provides written authorization. Unauthorized disclosure of PHI may constitute a federal crime and will subject an employee to immediate disciplinary action up to and including termination.

6. Complaint Filing Procedures

Anyone who believes that the City of Tomball is not complying with a requirement of the Privacy Rule may submit a written complaint to the Privacy Officer. The writing must contain

a description of the complaint and an explanation of the circumstances surrounding the complaint.

Complaints may also be filed with the Secretary of the United States Department of Health and Human Services. No retaliation will be taken or tolerated because someone files a complaint with the Privacy Officer or Department of Health and Human Services.

9.03 PROTECTION OF CONFIDENTIALITY

The Director of Human Resources and other appropriate officials will take necessary actions to protect the privacy of personal data both in City maintained personnel files and the personnel data system.

The Human Resources Department will develop a department structure, which limits access to employee's personnel files as allowed by the Texas Public Information Act. Use of records for improper or unauthorized purposes may result in disciplinary action.

9.04 RESPONSIBILITIES UNDER TEXAS PUBLIC INFORMATION ACT

While the Texas Public Information Act requires that much of the documents and information collected by the City is subject to public disclosure upon written request, a City employee has the right to choose whether or not to allow public access to portions of his or her personnel file that reveal a home address, home telephone number, social security number and information that reveals whether or not he or she has family members.

Home addresses, telephone numbers, social security numbers and personal family information of peace officers are automatically closed to the public. A signed form must be in the employee's personnel file that states that this information is not to be released or it is subject to release under this Act. A new employee must state in writing, no later than the 14th day after the initial date of employment, if this information is to be available upon public request or to remain confidential.

9.05 PERSONNEL FILES

The City of Tomball maintains the following files for each employee:

A. PERSONNEL FILES

Personnel Files of all employees are kept in the Human Resources Department. They contain all the information that was used in the hiring process- job application, W-4 and tax withholding information, supplementary materials submitted with the job application (resumes, licenses, certificates. etc.) and test records, reference check lists, aptitude testing data, pay adjustments, performance appraisals, notices of disciplinary actions, grievances/appeals filed and their responses, etc. The law requires special handling and segregation of other information, explained in the following sections.

B. CONFIDENTIAL FILES

The Human Resources Department maintains confidential files for employees based on the guidelines set forth by the Equal Employment Opportunity Commission (EEOC). Under the EEOC guidelines, the personnel files should not include the following:

- Benefits Claims forms
- Reimbursement requests for medical expenses
- Drug testing results
- Post-offer physical examinations
- Financial and credit information
- Results of background investigations
- Motor Vehicle Records
- Voluntary disclosure information from the applicant regarding a “disability” as defined by Section 503 of the Rehabilitation Act of 1973
- Any record of voluntary medical history obtained from an employee or any documents relating to an employee’s medical condition.

These guidelines are meant to apply mainly to information collected in connection with the Americans with Disabilities Act Amendments Act of 2008 (ADAAA), but as the employment relationship continues after hire, medical information on employees may come from any number of sources, and it must be handled with utmost care and placed in a separate confidential file.

The Human Resources Department maintains confidential files for each employee, as detailed below:

1. Protected Health Information (PHI)

The Privacy Officer, or designee, maintains files on Protected Health Information with access limited to:

- Supervisors who may need to know about restrictions on the work or duties of an employee and necessary accommodations
- First aid and safety personnel in connection with emergencies
- Government officials investigating compliance

- Government agencies gathering statistics
- Insurance carriers assessing health status in connection with life or health insurance policy.
- Employee Assistance Program information.

2. Leave

Under federal and state law, employers must keep detailed records of paid and unpaid leave, including records of notifications made, health care costs incurred, disputes about leave, and information on serious health conditions necessitating leave. Special security precautions apply to information about the employee's medical history and condition.

3. General Confidential Files

Any information not specifically related to employee wage and hour status of job performance is carefully scrutinized to determine whether it reveals any private fact about an employee. If it does, it is placed in this general confidential file rather than the "Personnel File". Financial and credit information and the results of back ground investigations and drug and alcohol results are kept in this file. Specific medical information is not a part of this file.

The City will not collect or retain the following information in the Personnel Files," except as may be needed for employment, insurance, or retirement matters:

- Names and birth dates of employees' family members. This is kept in a separate benefits file.
- Generally, marriage certificates, birth certificates or other personal documents will not be maintained with the exception for benefits purposes, such as documentation of qualifying events. The general rule will be a business need to know.
- Information on an employee's credit worthiness, financial standing or like information. This is kept in a separate confidential file.
- Medical information as needed, based on job requirements, will be maintained in separate files, as per federal regulations.

4. Benefits Files

The Human Resources Department maintains a benefits file on all employees that contains benefits enrollment forms and related documentation.

5. Departmental Files

Each Supervisor may maintain a limited "Departmental Personnel File" on employees in their charge. Information in this file will be considered necessary to properly administer and supervise employees within their work unit. This information may include, but is not limited to: performance evaluations, attendance records, emergency notification records, notes, memos, letters, information concerning recent disciplinary actions and other information relating to the employees' job training and performance.

9.06 EMPLOYEE ACCESS TO PERSONNEL RECORDS

The employee has the right to review their personnel files. Specific guidelines for employee access are as follows:

- A. An employee who wishes to see their personnel records should contact the Human Resources Department, where a representative will assist the employee. If the employee wishes to see a departmental personnel file, the supervisor or manager will arrange a time convenient for the review. A representative of Human Resources will be present at all times.
- B. Employees have the right to review information in their personnel file and their departmental file.
- C. The Director of Human Resources will strictly limit the internal availability of personal information to those officials with a clear need to know.
- D. The Director of Human Resources will refuse to release any information, except under the Texas Public Information Act, to outside sources without the employee's written approval.

Exceptions are limited to simple employment verification and legal requirements as may be necessary.

- E. The Director of Human Resources requires each employee to strictly adhere to these policies and practices. Violations are subjected to appropriate disciplinary action.

An employee may inspect their files and may take notes or have single copies made of any page in the file. No employee is allowed to remove any documentation from any personnel file. In such cases, an employee may be disciplined for removing City property.

An employee has the right to request a correction or deletion of inaccurate information. Approval for correction or deletion of any material rests with the Director of Human Resources and such requests must be submitted in writing. In case of disagreement with the information in their file, the employee may add a statement of disagreement in the file.

9.07 CITY OFFICIALS' ACCESS TO EMPLOYEE RECORDS

Access to employee personal information is prohibited to other employees with the following exceptions:

- A. Human Resources Department staff to which the Director of Human Resources authorizes access to files in conduct of their normal duties.
- B. An employee's immediate supervisor.
- C. Supervisors, within the chain of command of an employee, with a legitimate need to know.
- D. Persons involved in considering an employee for a promotional opportunity or other job change.
- E. City Attorneys, Directors, and Managers who the Director of Human Resources determines have a business need to know in the interest of matters pertaining to the City.
- F. Internal and external auditors of the City who the Director of Human Resources determines have a business need to know in performing an audit on the operations of the City.

9.08 DISCLOSURE OF EMPLOYEE INFORMATION

All requests for information about current and former employees as well as job applicants will be referred to the Human Resources Department. In most cases, written approval of the individual is required (other than routine employment verification) before personal data may be disclosed to an outside source. Exceptions to this rule include:

- A. Requests from prospective employers concerning dates of employment, title or position and job location.
- B. Subpoenas and judicial orders.

9.09 TAPE RECORDING

To assure the reasonable expectation of privacy in casual, business, or personal conversations, no employee, may audio or videotape conversations of any employee, official, and/or visitor in City owned or occupied buildings, unless the person grants permission. Please refer to Section 6.01 for a list of exceptions.

9.10 CURRENT ADDRESS AND INFORMATION

Each employee is responsible for promptly notifying the Human Resources Department of changes in address, telephone number, marital status and dependents. Please be sure to provide the necessary documentation for a change in marital status. A form for address changes is available from Human Resources. This responsibility extends to employees on layoff status and leaves of absence.

9.11 SEARCHES

The City may conduct inspections or searches of City property at any time at the discretion of the Department Director or City Manager with or without the employees' consent or approval, and without prior notice to the employee. The City may search City property regardless of whether the property is used exclusively by the employee, is secured, unsecured or secured by a lock or locking device provided by the employee or the City.

The City may also conduct inspections or searches of an employee's personal property, that are brought onto City property or the employee's workplace during the employee's work hours, if a supervisor has reasonable suspicion to believe that the employee's property is being used in violation of any City policy or state or federal law. In addition to personal property, the City reserves the right, with cause, to search any office, desk, file, computer, locker or any other area or article owned by the City. In this connection, all offices, desks, files (including electronic or computer files), computers, lockers, vehicles and any other piece of equipment or furniture are property of the City and are issued for the use of employees only during the employee's employment by the City.

An employee who interferes with a search or fails to cooperate in allowing a search conducted under this policy, including giving access to City property as directed, is subject to discipline, including possible termination.